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HARRIS # LIFE OF LORD CHANCELLOR
HARDWICKE



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Grosvenor Sq. Nov^r: 20, 1759.

Dear Sir,

The Duke of Newcastle has just now inform'd me of the very kind part, which you were pleas'd to take at the Meeting last night so agreeable to the obliging Professions, which you did me the honour to make on Sunday. I cannot delay one moment to return you my most hearty Thanks for all the Goodness you have shewn, & all Trouble you have taken on this Occasion. Be assur'd that the justest Impressions of them will ever remain upon my mind.

I am allways, with the greatest
Truth & Respect,

Dear Sir,

Your most obliged & most
obedient humble Servant
Hardwicke

THE LIFE
OF
LORD CHANCELLOR HARDWICKE;

WITH SELECTIONS

FROM HIS

CORRESPONDENCE, DIARIES, SPEECHES, AND JUDGMENTS.

BY

GEORGE HARRIS, ESQ.,

OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW.

"If you wish to employ your abilities in writing the life of a truly great and wonderful man in our profession, take the Life of Lord Hardwicke for your object; he was, indeed, a wonderful character—he became Chief-Justice of England, and Chancellor, from his own abilities and virtues."

LORD MANSFIELD.

IN THREE VOLUMES.

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THE LIFE

OF

LORD CHANCELLOR HARDWICKE.

CHAPTER VII.

1742—1745.

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THE storm which had been raised by the reiterated efforts and united exertions of the different members of the opposition against the late administration, and which was at this time raging with ungovernable fury, was not likely to be all at once appeased by the mere fact that

those who were mainly instrumental in exciting it, had suddenly been transported from the opposition to the ministerial side of the House of Commons; and had entirely seceded from the party they had been leading, to become the followers and supporters of those they had been denouncing. This circumstance—though it might serve very effectually to annihilate the credit of those disinterested patriots, who had thus deserted without ceremony both their party and their professions; and would be regarded as evincing that not their abhorrence of the principles, but their avarice for the places of the members of the late administration, was what really caused all this clamour against them—could, nevertheless, do but little to satisfy the dupes of their insincerity, or to restore the credit of those whom they had long and wantonly aspersed. The flames of violence and faction therefore still continued to ravage, although no longer stimulated by the breath which had excited them. Some object or other must also be found for fuel, on which the devouring element could be fed. Some luckless victim must be singled out, towards which the vengeance of an excited nation might be diverted, and by which it might be satisfied. Who so proper for such a purpose as the now fallen and discarded minister, who is of course become defenceless as regards the power he so lately wielded, and is forsaken by the party which so lately surrounded him; and whose fate served to exhibit at once the signal triumph of his opponents, the base perfidy of but too many of his allies, and the revengeful hatred of his enemies.

A political occurrence of this description is an act in the scene of real life, in which the different weaknesses, and inconsistencies, which disfigure and disgrace human nature, are exhibited in characters the most marked and moving, not only on account of the vivid manner in

which, on occasions of this nature, they are called forth, but because we have here proof afforded to us that the greatest and wisest among mankind are rendered subservient to these degrading impulses, in common with the meanest of their race ; that those of the mightiest intellect, equally with the feeblest and most degenerate, are tortured, and convulsed, and laid prostrate by these stupendous influences.

It is a noble and magnificent moral spectacle,—honourable to human nature, and glorious for mankind, such as one century only is permitted to witness,—when we see an individual of eminent position and high endowments, voluntarily freeing himself from the strong trammels of party, by which he has been hitherto bound to one narrow limit, and thenceforth applying all his energies only for the good of mankind at large, without regard to the interests of any one sect or party above another. Of all the prejudices with which human nature is beset, those of party cling the closest to the soul, and entwine themselves most intimately with all the passions, and feelings, and affections of the mind. The cutting off the right hand, or plucking out the right eye, is not a severer test of the sincerity of the suspected waverer, than the act of shaking off habits and notions which have become so firmly united to him.

When, however, a man espouses party, for party's sake alone ; uses the worst engine for the worst purposes ; and ruins the cause of his country, merely to benefit himself ; no language can be too strong to characterize his flagrancy.

In Pulteney's case, while his former career in opposition had been eminently unpatriotic, and calculated to be extensively injurious to the real interests of his country, he at last proved his own opinion of it by altogether

abandoning the principles he had espoused for those which he had denounced, and eagerly grasping the base wages of his apostacy ; thus, indeed, making some atonement for his misdeeds, by disgracing himself so fully, as to obviate all danger of any injury resulting from his example.

The harmony which was produced by the coalition which had been lately formed, was of very short duration, and probably more feigned than real, even while it seemed to last. The country we may suppose was mute, rather from astonishment than satisfaction, at what had occurred. Smollett well observes on this subject that,

“ It soon appeared that those who had declaimed the loudest for the liberties of their country, had been actuated solely by the most sordid, and even the most ridiculous motives of self-interest. Jealousy and mutual distrust ensued between them and their former confederates. The nation complained that, instead of a total change of men and measures, they saw the old ministry strengthened by this coalition, and the same interest in Parliament predominating with redoubled influence. They branded the new converts as apostates, and betrayers of their country ; and, in the transports of their indignation, they entirely overlooked the old object of their resentment.”*

Mr. Pulteney’s desertion from the popular ranks, “ for the wretched consideration of an empty title, without office, influence, or the least substantial appendage,” provoked the utmost indignation and disgust. The victim, however, towards which the excited rage and turbulence of the people was to be directed, was not suffered to escape, at least so long as any purpose was to be answered by professing to prosecute this alleged traitor to his country’s interests.

The discussion which took place in the House of Lords, on the 25th of May, 1742, on the second reading of the bill to indemnify evidence against the Earl of Orford, was

* History of England.

an occasion well suited to Lord Chancellor Hardwicke's particular abilities and turn of mind, and on which he made one of his most powerful and effective displays, both as a reasoner and an orator. Lord Limerick, on the 23rd of March, had moved for an inquiry into the conduct of Robert, Earl of Orford, for the last ten years of his administration; which, after a sharp debate, was carried in the affirmative. The House then resolved to choose a secret committee by ballot; and, in the mean time, presented an address to the King, assuring him of their fidelity, zeal, and affection. The committee of secrecy being chosen, began to examine evidence, and Mr. Paxton, solicitor to the Treasury, refusing to answer such questions as were put to him, Lord Limerick, chairman of the committee, complained to the House of his obstinacy. He was first taken into custody, and still persisting in his refusal, committed to Newgate. His Lordship then moved that leave should be given to bring in a bill for indemnifying evidence against the Earl of Orford, which was accordingly prepared, in accordance with the decision of the majority. The bill made rapid progress through the House of Commons. The Earl of Orford's friends, being persuaded that it would be rejected by the peers, exerted themselves but little to resist it. The debate on the second reading of the bill, in the House of Lords, was opened by Lord Carteret, who strongly opposed the measure, as contrary to natural justice, to the law of England, to the usage of Parliament, and to the honour of that House. Lord Talbot, son of the late Chancellor, after a long silence, which, according to Archbishop Secker, occurred in the house when Lord Carteret sat down, next rose, and supported the motion, urging that whatever tended to the discovery of truth contributed to promote justice. The

bill was subsequently opposed by Lord Hervey and the Duke of Argyle; and defended by Lord Chesterfield, who commenced by observing that he knew of no disobligation which he had to the Earl of Orford, and had no one sentiment of pique against him. He never envied his power, but hoped the end of it would be the end of his measures, and declared that he had a great regard for his abilities, and many able (perhaps amiable, Archbishop Secker supposes he might mean) qualities in social life. He then argued, from analogous cases, the justice and the expediency of the proceeding, and concluded by contending that rejecting this bill would be passing one of impunity for all future ministers; and that, when the nation cried for inquiry, that House ought to lie under no imputation of obstructing it.

Lord Chancellor Hardwicke spoke after Lord Chesterfield. The length at which he is reported by Secker, in his notes of the debate, in comparison with the other speakers, is some test of the merit of his address, in the eyes of one who must have paid deep attention to all that passed; and who, from experience, at least, must have been well able to judge of the relative value of different performances of this kind; though, from the reporter of it not being a lawyer, this oration must have possessed something beyond its value as a mere legal dissertation, to recommend it; while, as these notes were not meant to meet the public eye, we cannot suppose any flattery could be thus intended.

This speech is mainly remarkable for the sound constitutional legal arguments which it contains, proving that the spirit of the constitution, of law, and of justice, were alike opposed to the measure. He then analyzes, very acutely, the nature and principles of evidence in general, and the method both of procuring and dealing

with testimony of different kinds. And he concludes with the emphatic declaration that he would sooner suffer by, than vote for such a bill. As I have already observed, the subject was one peculiarly well suited for Lord Hardwicke, not only as a lawyer, but from the philosophical turn of mind which he possessed, and the mode in which he reasoned from first principles, in dealing with a judicial question.

The observations which follow, fell from him during the course of his speech on this occasion.

“ Lord Chancellor Hardwicke. My lords, after having, with an intention uninterrupted by any foreign considerations, and a mind intent only on the discovery of truth, examined every argument which has been urged on either side, I think it my duty to declare that I have yet discovered no reason which, in my opinion, ought to prevail upon us to ratify the bill that is now before us.

“ The noble lords who have defended it appear to reason more upon maxims of policy than rules of law or principles of justice; and seem to imagine that, if they can prove it to be expedient, it is not necessary to show that it is equitable.

“ How far, my lords, they have succeeded in that argument which they have most laboured, I think it not necessary to examine, because I have hitherto accounted it an incontestable maxim that whenever interest and virtue are in competition, virtue is always to be preferred.

“ Should any private man, my lords, offer a reward to any that would give evidence against another, without specifying the crime of which he is accused, doubtless he would be considered by the laws of this nation as a violator of the rights of society, an open slanderer, and a disturber of mankind; and would immediately by an indictment or information be obliged to make satisfaction to the community which he had offended, or to the person whom he had injured.

“ It has, my lords, I own, been asserted by the noble duke, that the public has a right to every man's evidence, a maxim which in its proper sense cannot be denied. For it is undoubtedly true that the public has a right to all the assistance of every individual; but it is, my lords, upon such terms as have been established for the general advantage of all: on such terms as the majority of each society has prescribed. But, my lords, the majority of a society, which is the true definition of the public, are equally obliged with the smaller number, or

with individuals, to the observation of justice, and cannot therefore prescribe to different individuals different conditions. They cannot decree that treatment to be just with regard to one, which they allow to be cruel with respect to another. The claims of the public are founded, first upon right, which is invariable; and next, upon the law, which, though mutable in its own nature, is, however, to be so far fixed as that every man may know his own condition, his own property, and his own privileges, or it ceases in effect to be law; it ceases to be the rule of government or the measure of conduct.

“In the present case, my lords, the public has not a right to hire evidence, because the public has hitherto subsisted upon this condition, among others, that no man shall swear in his own cause. The public has not a right to require from any man that he should betray himself, because every man may plead that he is exempted from that demand by the public faith.

“Thus, my lords, the right of the public is only that right which the public has established by law, and confirmed by continual claims, nor is the claim of the public from individuals to be extended beyond its known bounds, except in times of general distress, where a few must necessarily suffer for the preservation of the rest.

“It ought to be proved that wickedness had discovered some new shelter from justice, before new engines are invented to force it from its retreat, and new powers applied to drag it out to punishment.

“The nation has subsisted, my lords, so many centuries; has often recovered from the lingering disease of inward corruption, and repelled the shocks of outward violence; it has often been endangered by corrupt counsels and wicked machinations, and surmounted them by the force of its established laws, without the assistance of temporary expedients,—at least, without expedients like this,—which neither law nor justice can support, and which would in itself be a more atrocious grievance than those, if they were real, which it is intended to punish; and might produce far greater evils than those which are imputed to him against whom it is projected.

“This bill is, in my opinion, calculated to make a defence impossible, to deprive innocence of its guard, and to let loose oppression and perjury upon the world. It is a bill to dazzle the wicked with a prospect of security, and to incite them to purchase an indemnity for one crime by the perpetration of another. It is a bill to confound the notions of right and wrong, to violate the essence of our constitution, and to leave us without any certain security for our properties or rule for our actions.

“I have endeavoured to show that this bill is founded upon false

notions of criminal justice ; that it proposes irrational and illegal methods of trial ; that it will produce consequences fatal to our constitution, and establish a precedent of oppression. I have endeavoured, in examining the arguments by which the bill has been defended, to show that the rights of the public are ascertained, and that the power of the majority is to be limited by moral considerations ; and to prove, in discussing its particular parts, that it is inaccurate, indeterminate, and unintelligible.

“ What effects my inquiry may have had upon your lordships, yourselves can only tell : for my part, the necessity of dwelling so long upon the question has added new strength to my conviction ; and so clearly do I now see the danger and injustice of a law like this, that, though I do not imagine myself endowed with any peculiar degree of heroism, I believe that, if I were condemned to a choice so disagreeable, I should more willingly suffer by such a bill passed in my own case, than consent to pass it in that of another.”*

On a division the bill was lost, the contents being only 57, and the non-contents 109. The commencement of the debate is reported fully in Lord Hardwicke’s notes, which are, however, too voluminous for insertion here. No analysis of his own speech is among them.

After this the committee proceeded to make further progress in their scrutiny, and had almost prepared a third report, when they were interrupted, or rather relieved, by that event so longed for by perplexed patriots, the prorogation of Parliament.

A letter which was written by Mr. Philip Yorke, the Lord Chancellor’s eldest son, to his brother Joseph, on the 17th of June, affords us some information both as to the domestic habits and movements of the family, and the progress of public affairs up to this period.

“ We had about a week’s recess at Whitsuntide, which I spent at Rest along with Patratus.† Charles came over

* Hansard’s Parl. Hist.

† A cognomen by which Lord Chancellor Hardwicke’s sons familiarly designated their father, when writing to one another.

from Cambridge to give us the meeting, and favoured us with his erudite company the whole time. The country wants rain extreamly, but the weather was otherwise very pleasant, and we made the best use of it. We all think it did papa a great deal of good. I am now in London, and shall be between that and Windsor till y^e Parliament rises. I cannot certainly tell you when this long session will be ended.

“The Secret Committee have had Lord Scroop, Secretary to the Treasury, before them, who desired to be excused from taking the oath, because he thought it would oblige him to answer all the questions they should ask of him, and some of them might be inconsistent with his office, which was a place of trust and secrecy. He added, too, I hear, that he looked upon himself as accountable to no one but the King, since all the money for secret service was paid by His Majesty’s special warrant. The Committee have held several consultations whether they shall make report of this to the House, and move a censure or punishment upon Scroop, but as yet are come to no resolution, and ’tis thought there will be nothing done in it.

“Great changes are talked of speedily,—Lord Gower to be Privy Seal; Lord Bathurst, Captain of the Pensioners. . . . Lord Limerick, Turner, and Jefferys, all friends of Mr. Pulteney, will, it is said, be provided for. How far or when these alterations are certain, or when they will be, this deponent sayeth not.”*

In another letter, from the same to the same, dated July the 8th, Mr. Yorke says—

“I depend upon it that a short account of the report from the Secret Committee will not be disagreeable to

* Hardwicke MSS., Wimpole.

you. It took up above two hours in reading by Lord Limerick, and contains three points:—

“I. The contract with Mr. Bristol and Burrell for remitting money to the forces in Jamaica, represented as a very disadvantageous bargain for the said forces, who lost one day’s pay in seven by it; and better offers had been made by others.

“II. Practices in order to influence the elections at Colchester, Weymouth, and Oxford, by promises under Sir R. W.’s * own hands, and menaces w^{ch} were put in execution by turning out those who were not compliant.

“III. The extravagant increase of the secret service money for the last ten years, compared with ten years from August 1707 to 1717, notwithstanding the last period included a war with France, an accession to the Crown, and a subsequent rebellion.

“Viz., £337,960 from 1707 to 1717.

“£1,453,400 for the last ten years.

“Of this large sum, above £50,000 was expended in the payment of writers and printers of the Free Briton, Gazetteer, &c.

“Lord Orford’s behaviour in the Treasury, upon going out, was likewise represented in the most odious colours; y^t he had taken £17,000 as a repurchase of the pension intended him. I am told, on y^e contrary, y^t his friends say it was a debt due to him from the King.

“After reading the report twice over there was a considerable pause, when Velters Cornwall moved for the printing of it, and was seconded by Mr. Foley; but the previous question was moved by Mr. Pelham and Winnington, w^{ch} was carried in the negative with^t a division, and without any one of the Secret Committee speaking

* Sir Robert Walpole’s.

a word in the debate, or desiring a day to take the report into consideration; so that, though they promise another on the convention, nobody thinks that any proceedings will be begun in consequence of them,—at least, not this session.

“The House of Commons has literally nothing to do, and is adjourned for a week, in great hopes of being finally prorogued soon after; but when that is, I cannot learn. Indeed, things here are in a very uncertain state, occasioned by competitions whether Jack shall be out and Tom in, for I think in my conscience that’s all the struggle.

“Charles is very happy amongst Lord Somers’s papers at Belbar, where he finds many curious anecdotes.

* * * * * *

“There is great talk of a letter which a certain gentleman at Rome* has writ to John of North Britain,† but he sent it immediately to the King.”‡

Mr. P. Yorke in a letter to his brother Joseph, written at a later period in the year, says—

“You may imagine the abrupt manner in which the Committee broke up occasioned much censure and ridicule, which has broken out in divers pamphlets, ballads, & other such vehicles of public scandal. One of the former, to show the necessity of a new opposition from the inconsistent, self-interested manner in w^{ch} the present patriots have acted, is given to Dodington; another has since been published in answer, recommending unanimity, & defending y^e conduct of Lord Bath & his friends.

“There is a ballad called the ‘Old Coachman,’ has

* The Pretender.

† John Duke of Argyle.

‡ Hardwicke MSS., Wimpole.

humour in it. The story it is founded on is ridiculous enough. Lord Bath's coachman had got drunk with some good tipples of the D. of N., at Clermont, & in carrying back his master & L^d Carteret, who had dined there, to town, stopped short, & wo^d not go a step further, & they were obliged to have recourse to Lord Orford's coachman, whom they accidentally met with airing his horses, to drive them home."*

Horace Walpole, in one of his letters to Sir H. Mann, mentions the following in relation to the last-mentioned affair.

"Lord Orford has been at Court again to-day: Lord Carteret came up to thank him for his coachman; the Duke of Newcastle standing by: my father said, 'My Lord, whenever the Duke is near overturning you, you have nothing to do but to send to me, & I will save you.' The Duke said to Lord Carteret, 'Do you know, my Lord, that the venison you eat that day came out of Newpark.' Lord Orford laughed & said, 'Soh! you see I am made to kill the fatted calf for the return of the prodigals.' The King passed by all the new ministry to speak to him, & afterwards only spoke to my Lord Carteret."

It has been well remarked, that there is nothing which serves so fully to display the real character of a man, as his private letters; and probably his letters to his own children conduce most perfectly to effect this, as in this case, at least, his sincere sentiments are evinced.

The letters here extracted from, which were addressed by Lord Chancellor Hardwicke to his son Joseph, are admirably adapted to afford an insight into the character of the writer, both from the sentiments they

* Hardwicke MSS., Wimpole.

convey, and the style and manner in which they are expressed.

Mr. Joseph Yorke, the third son of Lord Chancellor Hardwicke, to whom the letters already quoted from were written by his eldest brother, had lately entered the army, and was at this time with his regiment in Flanders. In a letter to his father, dated Ghent, June 15th, he gave an account of the commencement of his military career, which was eventually one of great brilliancy, and of his landing at Ostend, and journey thence by canal to Bruges.

Lord Hardwicke, in reply, wrote to the young soldier as follows:—

“ London, June 21, 1742. ”*

“ DEAR JOE,—I received much pleasure by your letter, which found me at Rest the latter end of the Whitsun week, with your brother & Lady Grey. We read it over & over, & travelled with you up the canal to Bruges, which delighted us with its prospects, when soon afterwards that to Ghent broiled us with the heat, reflected by those two ugly hills. However, we rejoiced to hear of the health & good spirits you were in, & I pray God continue those blessings to you.

* * * * *

“ Our Parliament is still sitting, but has now little to do, besides waiting for the report from the Committee of Secrecy, which is expected in less than a fortnight, & in that time I believe the Houses will rise.

“ I very much approve the good sentiments & resolutions you express. Be sure you constantly adhere ; & let no ill example, or misplaced ridicule either seduce or laugh you out of them. I cannot add to the good advice I gave you upon the head of your duty to God, yourself,

* Hardwicke MSS., Wimpole.

or those you converse with: & may the impressions of it be lasting & strong! You will receive herewith a very good letter from your old friend the Dean of Carlisle, for which you are much obliged to him. Remember, besides, that whoever goes into a foreign nation, stands entrusted with some part of the honour of his country, not only in respect of his bravery, but of the morality & politeness of his behaviour. If you persevere in these good ways, you shall want no encouragement or support from me, & you will make yourself many friends.

“Learn, if you can, to inform me how I may most advantageously remit your money, which shall be punctually sent you.

“All here send you much love, & showers of good wishes. Let us hear from you often, & be assured I am always

“Your most affectionate father,

“Who prays God to bless you,

“HARDWICKE.”

“P.S. Your mamma tells me she sent the Dean's letter last week. His R. H. the Duke inquired very kindly after you on Saturday.”

In another letter from Lord Chancellor Hardwicke to his son Joseph, dated a few months after the preceding, he tells him—

“It would have given me much pleasure if your letter had only brought me the good news of your health, which I allways wish & pray for; but it was abundantly the more welcome from the good sentiments which I find expressed in it, & which the more firmly you fix in your mind, & the more steadily you pursue in your conduct, the more you will *undoubtedly* find both your character, peace of mind, & general happiness advanced.

“ I make no question but you have done your best in providing camp necessaries, tho’ the particular terms are to me an unknown tongue ; for we want a military dictionary to explain your *haccums*, *canteens*, *pallias’s*, &c., tho’ we understand well enough your *sacks to forage corn in* to be a kind of thieving utensils legitimated by the practice of war.

“ As to your expenses, depend upon it that I am as desirous as you yourself can be that you sho^d have every thing that is necessary, convenient, and decent for your degree ; and the confidence I have in you that you will confine yourself within these bounds induced me to do what I have done. So long as you observe that rule, attended with sobriety & virtue, I shall continue to approve and encourage you, & so will all others whose approbation is worth seeking or having.

“ Tell me in your next the names of those officers who have principally shown you regard, that I may make my acknowledgments to them, & acquaint them with your’s. You will, probably, ere this have had an opportunity of delivering my letter to the Earl of Stair. Be sure to shew his Lordship the utmost respect, & endeavour to gain his approbation.

* * * * *

“ Be watchful against fevers & colds, & don’t, above all things, risque them by intemperance or frolicks ; but in your duty all hazards must be run. If you find any approach of them, *principiis obsta*. . . .

“ Whilst you lye in quarters in the winter, be very diligent in making yourself master of all the branches of your profession you can possibly. Without that all other merit is defective, & a man makes an ill figure in being every thing but what he professes to be. This is best done by industriously attending to the particular

parts as he goes on. I have heard of those who, whilst captains of foot, have despised the low functions of that inferior post, studied nothing but great enterprizes, &, in imagination, led armies of an hundred thousand men ; & by these means have, as it were, overlooked every thing as they went along, & never understood anything of their trade from the captain to the captain-general. I don't write this out of the least doubt of your application, for I have heard a very good account of it, & only mean an admonition to perseverance. In the intervals of your business, you will have sufficient time for study, in which you should give tacticks & fortification the first place ; history & modern languages, particularly French, the next ; by no means omitting to read the Roman history, both for the subject & the language. If you want any more books from hence, mention them & they shall be sent you.

“ If you can at any time be spared from your duty, I should not be sorry if you visited the Hague, & perhaps Brussels again, with company as well chosen as your last. As you will there see more of the world & polite company than at Ghent, it may tend, if rightly used, to your improvement, & I shall not grudge the expence within a reasonable compass. A manly politeness is necessary to every gentleman, but is particularly advantageous in making the fortunes of a soldier, if it be superadded to the essential qualifications. But, in any such excursions, you must be more than ordinary attentive to the general rules of your conduct, & be upon your guard against all approaches of vice.

“ Your letter to your brother Charles pleased me much. Your observations show you have had some attention to your own exercise & that of foreigners. It is right to improve by looking on ; but I dare say your

discretion makes one so young as you keep some of your remarks to yourself, any otherwise than they may lead you to proper questions & enquiries, in which light they may may be of great use. I should be apt to suspect your German friend was scarce serious, for surely so absurd a discipline cannot prevail in any nation.

“ I think I have by this time laid you down a plan for your winter campaign ; & I have chosen to do it now thus at large, because Term & Parliament oblige me to be but a sorry correspondent.”*

Lord Stair wrote to Lord Hardwicke from Brussels, expressing great satisfaction at his son's conduct, who he says “ probably may one day or other make a good figure in our trade.”

The Chancellor, in reply to Lord Stair, stated—

“ I am highly sensible of your abundant goodness to my son, whose heart is also full of the warmest gratitude & duty to your lordship, for the very kind & condescending notice which you have been pleased to take of him, of w^{ch} I presume to request the continuance. He is very young, but I think disposed to be diligent, & to learn ; & I esteem it his chief happiness to set out in his profession under your lordship's command & protection, & to have y^e opportunity of forming himself by y^e orders & example of so great a master.”†

Mr. Joseph Yorke, in a letter to his father, mentioned that about a fortnight before, the Duke of Marlborough had sent for him, and after complimenting him on his good conduct, promised to apply for his promotion, and insisted upon his writing to the Lord Chancellor about it by a letter which the Duke said he would deliver him-

* Hardwicke MSS., Wimpole.

† Ibid.

self on his arrival in England, and which should serve as an introduction of him to Lord Hardwicke. Accordingly, Charles Yorke tells his brother Joseph, shortly after, that “the Duke of Marlborough has seen Papa, and says several things to your honour. The latter has desired him to make the best use of it, and to take notice of you to the King, by which means he thinks he may be able to proceed with a better grace in asking an advancement for you. Your care of the company and general behaviour are very highly spoken of.”*

The Lord Chancellor, in another epistle to his son Joseph, after cautioning him to be very particular in obtaining leave of absence prior to a proposed excursion he was about to make, and on no account to exceed the time allowed him, proceeds thus :—

“You don’t mention what company you are to have in this excursion. I much wish you co^d have as good as in your former tour in the summer, but hope you have met with some that are both sober and instructive.

“As you express yourself sensible of the great expence occasioned by your maintenance abroad, I desire you will take particular care to keep it as low as you can. I would have you appear in a manner becoming yourself and your friends, but avoid all extravagance. You say *you never play at all*, and I insist you should always be able to say so, for that vice is the inlet of every other, and the bane of youth. Keep your virtue and sobriety, and be very careful of your health, and be studious to make this tour as improving and advantageous as you can. When you return to my Lord Stair, make him my most respectful compliments, particularly

* Hardwicke MSS., Wimpole.

for his indulgence and goodness to you. Your mamma sends you her love and blessing, and all here their kind love. You are extremely obliged to the Duke of Marlborough for his friendship to you. . . .

“ P.S. If you meet with, in Holland, any curious new book or pamphlet, that is worth sending over, send it to me ; and Mr. Trevor or some of his people will put you in a way of sending it in the safest and least expensive manner.”*

Charles Yorke, in a letter to his brother Joseph, written from Cambridge, during June of this year, and commencing “ Dearest Joe,” tells the young soldier—

“ In two or three days I shall set out for Bellbar, to spend some time there ; it is a place I always think on with pleasure, as it brings to my mind several stories of our infancy, and the improving garrulity of Sir Joseph Jekyll. *Veteres revocamus amores, atque olim missas flemus amicitias.* What will contribute to give a particular relish to my visit, is the occasion I shall take to turn over Lord Somers’s papers, which have never been examined since his death. After I have paid my duty to the old lady, and dispatched this business, I shall return to Cambridge, and to my usual way of living here, which is something between indolence and study. It is indolence which bears a little resemblance to study, and study which bears a great resemblance to indolence. My next stage of life will be more active.”†

In another part of the letter he mentions the following :—

“ Dean Swift has had a statute of lunacy taken out

* Hardwicke MSS., Wimpole.

† Ibid.

against him. His madness appears chiefly in most incessant strains of obscenity and swearing; habits, to which the more sober parts of his life were not absolutely strangers, and of which his writings themselves have some tincture. Mr. Pope's saying is true,

‘Great wits to madness, sure, are near ally’d,’

in a much less refined sense than that in which he meant it.”

After the death of Sir Joseph Jekyll, the correspondence and law papers of the great Lord Chancellor Somers, which had descended to the former learned judge, who had married a sister of Lord Somers, were submitted to the inspection of Mr. Charles Yorke. The following account was given of them by him in a letter to his eldest brother, written from Bellbar, the seat of the late Sir Joseph Jekyll, to his projected visit at which place Mr. C. Yorke's last letter refers. The subject is one necessarily interesting to every professional, and indeed to every general reader. The portion of the correspondence which relates to papers illustrative of Lord Somers's own character and career, is that which I have been mainly desirous of extracting. Mr. C. Yorke commences by stating—

“I have now gone through the task which I had set myself at my first coming to this place, of ranging the papers, which have lain so long neglected, into some order. I was careful, in the first place, to separate such as appeared most material from those that are less so; then such as are public from those that are of a private nature. I shall content myself with giving you short and general heads of the most remarkable things. You will first inquire if I find any thing of consequence before L^d Somers was made Chan-

cellor. I believe I told you when I saw you in London, that I had drawn out of one of the boxes abundance of law papers, among which there are some arguments which seem to be tolerably perfect. The foul draught of the pamphlet concerning Grand Juries, the Just and Modest Vindication, &c., but scarce any letters. Afterwards, when he came into the administration, there are many correspondents who write to him out of Ireland; the Marquis of Winchester, Lord Galway, L^d Capel, Lord Chanc^r Methuen, Lord Chanc^r Freeman, and sometimes the lords justices in a body, concern^g the temper of their parliament, the bills they passed, and the arts they used in managing the papists. Several curious papers are sent him from L^d Bellamont relating to the affairs of the plantations, province of New England, &c. I find papers relating to Sir J. Fenwick; a long account of the negotiations the D. of Shrewsbury entered into with Smith, (concerning whom there is a great deal in the Duke's letters,) from the year '94 to '96, relating to the designs of the Jacobites, the places where they concealed arms, and the divisions in that faction."

After mentioning the different letters from various persons addressed to Lord Somers, which he discovered among his papers, Mr. C. Yorke proceeds,—

"There are several material letters of L^d Marchmont as to the Union, (of whom L^d Somers had a great opinion), with two or three of his answers. Among Lord Halifax's letters I find not only an intimation of jealousy between L^d Somers & himself, but betⁿ him & the Duke of Marlborough. At this time I have discovered that Somers drew up a very remarkable paper, (which I suppose might be communicated to Lord Godolphin, &c.) concerning y^e terms on w^{ch} the Whigs

entered into y^e administration, the coolness y^t had arisen betⁿ them & the fav^{tes}, & the terms on which they desired to be reconciled.

* * * * *

“ There is a great number of Mr. Addison’s to L^d Somers, concerning Irish affairs. . . . I find some letters from Dr. Wallis when he was 84 years old, concerning the progress made by one to whom he taught his art of deciphering, by y^e direction & encouragem^t of Lord Somers. Others from Bishop Hough, recommending himself to L^d Somers, (while he was Solicitor-General,) for the Bishoprick of Oxford; & Mr. Addison in his favour, when he was L^d Keeper. Others from Mr. Walsh, Mr. Locke, & Archb^p Tennison, to recommend Sir Is. Newton as a preceptor in mathematics to the D. of Gloucester, & one from Dr. Swift, in the year 1707, to thank Lord Somers for the favours he had received from him. I have met with almost all the speeches & addresses of K. W.’s reign in L^d Somers’s own hand, & minutes of council for many years. . . .

“ I have made up a box full [of Thurloc’s State Papers], & shall send them to your house in St. James’s Square, that Birch may have them whenever he calls for them. I am under some apprehensions, however, that Lady Jekyll will lay an embargo on them before they set out, for she is very unwilling that any of the papers sho^d stir from hence, tho’ they are absolutely useless here.”*

In another letter, which was to his brother Joseph, Mr. C. Yorke states that he found among the papers relating to the impeachments in the year 1700, a letter

* Hardwicke MSS., Wimpole.

from the Duke of Shrewsbury to Lord Somers, who mentioned—

“That his opinion of public life was now justified. I wonder,” says he, “how any man who has bread in England will be concerned in business of state. Had I a son, I wo^d sooner breed him a cobbler than a courtier, & a hangman than a statesman!”

“I found K. William’s last speech in his own hand, which you know is the most celebrated of any that ever came from the throne.”

In the conclusion of this letter, which was written from Wimpole, Mr. C. Yorke tells his brother—

“Your picture puts us in mind of you every day, & hangs very near that great man of whose papers so much has been said in this letter.”*

A subsequent letter from Charles to Joseph Yorke, gives a summary of the opinion which the writer had formed of Lord Somers’s character from the perusal of his papers:—

“From the superficial view I had of L^d Somers’s papers, of which I have given you a very general account in part, (that is, so far as they relate to K. W.’s reign), I entertain the highest idea of his parts, knowledge, & industry. He seems to have attended at once to his business in the Court of Chancery, to all branches of trade, the revenue, and foreign affairs, and to have been a leader in Parliament. When it is considered at the same time how great he was in the capacity of a scholar, one may pronounce him a single and amazing instance in his kind.”†

* Hardwicke MSS., Wimpole.

† Ibid.

The Duke of Somerset, during the month of June in this year, addressed a letter to the Lord Chancellor, relative to filling up an important judicial appointment, which at this time became vacant,—that of Chief Baron of the Exchequer,—and which he solicited for Sir Thomas Bootle.

Lord Hardwicke, in his reply to the Duke of Somerset, stated that he could not forward the interest of Sir Thomas Bootle, as he had already applied on behalf of his friend Mr. Justice Parker. In this letter he acknowledges to the full the obligations which he owed to Lord Chancellor Macclesfield, and the real history of Parker's promotion is made apparent by it. After mentioning his desire to oblige the Duke of Somerset, and that the late Chief Baron's death had been long expected, Lord Hardwicke thus proceeds :—

“ I thought it my duty to be early in proposing to y^e King a successor equal to such a station, & therefore recommended Mr. Justice Parker to His Majesty, who was pleased to give his promise, as far as was proper on such an occasion. This gentleman is a near relation to my late Lord Macclesfield, to whom I had y^e greatest obligations in the beginning of my life, & who also had y^e honour of y^r Grace's patronage ; & he is every way deserving, & has gained a very high character for ability & integrity since his advancement to y^e bench. Gratitude, therefore, as well as regard to the public, induced me to this step ; & from hence y^r Grace will be convinced y^t now y^e event has happened, I cannot in honour depart from my prior engagement.”*

Mr. Justice Parker was accordingly shortly afterwards appointed Lord Chief Baron of the Exchequer. With

* Hardwicke MSS., Wimpole.

this learned judge, who was one of Lord Hardwicke's early associates, the Chancellor ever lived in intimate friendship; and the name of Lord Chief Baron Parker occurs as a trustee in some of the conveyances relating to purchases of land in Cambridgeshire, which were made about this period by Lord Hardwicke.* Mr. Bootle, it seems, by a letter from Mr. P. Yorke, was soon after this offered the Solicitor-Generalship by the Chancellor, and for declining which, says Mr. Yorke, he was "much blamed by all his friends."

From the foregoing correspondence, the reader will be enabled to decide what reliance in this matter is to be placed on Horace Walpole, who wrote thus to Sir H. Mann,† July 7th, 1742. The Chief Barony, being the only office vacant at this period, must have been the one meant in this letter:—

"Bootle is to be Chief Justice; but the Lord Chancellor would not consent to it, unless Lord Glenorchy, whose daughter is married to Mr. Yorke, had a place in lieu of the Admiralty, which he has lost. He is to have Harris's."

"This article," says the editor of the above correspondence, "did not prove true; Mr. Harris was not removed, nor Bootle made Chief Justice."

Bishop Sherlock addressed the following letter to Lord Chancellor Hardwicke, in which he again bore

* Lord Chief Baron Parker, like Lord Chief Justice Pratt, has been celebrated in legal verse; and the following allusion to one of his decisions is contained in the *Pleaser's Guide*:—

"Parker, Chief Baron, held that bruising,
Deemed so delightful and amusing,
Is an illegal dang'rous science,
And practis'd in the law's defiance."

† Walpole's letters to Sir H. Mann.

testimony to the latter's great merit and disinterestedness, in promoting men of worth among the clergy ; and also to the justice of Lord Hardwicke's sentiments on the subject of the condition of the Church at that time.

*“ Sarum, Aug. 31, 1742.**

“ MY LORD,—I am extremely sensible of your lordship's great goodness to me ; and of the very obliging manner, in w^{ch} this fresh instance of it is conveyed to me. As your lordship's great character & station place you out of the reach of any little service I am able to doe, it leaves me under the strongest impression of gratitude for this favour, & the great honour done me in your letter.

“ I doe assure your lordship that I had no other motives for making the application, than those mentioned in my letter. Mr. Rogers was unknown to me till I came to this diocese ; & known to me now, only as a clergyman of distinguished worth & abilities. Your lordship has made him very happy, & mee too, in permitting me to be instrumental in helping one, who so well deserves it.

“ Y^r lordship's observation on the present state of the clergy is very just ; but it is a melancholy truth : & what is still worse, there is but little hope of finding a remedy for this evil. Discipline is in a manner lost ; & the episcopal authority wth respect to the behaviour & conduct of the clergy become so feeble, that many are of opinion, that there is no other way to cover the weakness of it, but not to make use of it. This is a matter that will deserve serious consideration, when the times will permit, & there shall arise a disposition to take care of the morals & religion of the people. I wish the opportunity

* Hardwicke MSS., Wimpole.

may offer in your lordship's time; your credit & authority, joined to your inclination to promote so good a work, wo^d afford a prospect of bringing it to a happy conclusion.

“ I will take care Mr. Rogers shall attend your lordship at the time appointed, & I hope to be able to wait on you before you leave the country.

“ I am, with the greatest respect,

“ Your lordship's most obedient

“ & most humble servant,

“ THO. SARUM.”

Lord Bolingbroke at this period wrote a letter to Lord Chancellor Hardwicke, respecting which the note appended to it affords all the explanation that can be offered.

“ *Argerville, Oct. the 30th, 1742.**

“ MY LORD,—You was pleased to renew in so kind a manner when I was last in England the marks of y^r friendship, that I think myself obliged to take the first opportunity I have had since my return into this country to make my acknowledgements to y^r lords^{ps}. You shewed me goodwill & friendship, tho' I was a stranger to whom you owed nothing personally, whilst many who owed me much, affected to show me their ill will & their enmity, because there was a mean merit acquired by doing so; and even as far back as when the favour of the late King could not protect me against the malice of his ministers, nor secure me the full effect of his promises. These are obligations, my lord, & such as I shall remember always. The life I now lead, the place I inhabit, & the company I see in it, furnish nothing that can be of information or entertainment to your lord^{ps}.

* Hardwicke MSS., Wimpole.

A great scene, & one wherein the greatest talents may be, and indeed require to be exercised, is opened. God grant it may be closed by barring effectually a family ambition, which I apprehend that we revived, or encouraged at least, by the quadruple alliance, and have favoured too much ever since. I see distinctly but one corner of this scene, and I believe your lords^p will approve my silence even about that. I conclude therefore by renewing the most sincere assurances that I am, & will be always, my lord, your lords^ps.

“Most humble & most obed^t ser^t,

“H. S^t. J. L. BOLINGBROKE.”

The following note respecting this letter, was indorsed upon it by the Chancellor's eldest son.

“I never heard what this related to; I recollect the letter to have been given, or rather slipped into my father's hands by Will. Chetwynd, at the H. of L^{ds}.

“H.”

Lord Hardwicke's reply, which was not written until some time after the letter which gave occasion to it, was in the following terms.

“*London, Jan'y 8, 1742-3.**

“MY LORD,—The very obliging manner in which you were pleased to write to me, did me so great an honour & pleasure, that I cannot help taking much shame to myself for not having sooner acknowledged it as I ought.

“Nothing should have restrained me from doing so, but the communication which, by your lordship's permission, my Lord Carteret made to me of your letter to him, & the hopes I had entertained that by this time I might

* Hardwicke MSS., Wimpole.

have been able to say something to your lordship on that subject, to which I am so desirous of contributing y^e little which is in my power, that none of y^r friends can be more truly zealous in any thing which concerns your interest.

“ My Lord Carteret is entirely in y^e same sentiments, of w^{ch} I presume you will be informed directly by himself.

“ The acknowledgments w^{ch} y^r l^d’s is pleased to make of any former endeavours of mine for your service, are vastly beyond y^e merit of them. They were only y^e duty owing by a council to his client; but it was my happiness that my labours were engaged in y^e cause of a person of y^r l^d’s distinguished talents & politeness, & whose refined way of thinking can turn acts of justice into obligations.

“ The great scene you mention is still open, & extended every day by new events. Nobody joins more heartily than I do in y^r l^d’s good wishes as to the manner of closing it; but a *family ambition* is a kind of hereditary disease transmitted from father to son, & from grandfather to grandson; and to y^e last degree difficult, if not impossible to be eradicated, & perhaps only to be kept under by y^e force of strong medicines to be administered from generation to generation.

“ I am always with the most perfect respect,

“ My l^d,

“ Y^r l^d’s most obed^t & most humble serv^t,

HARDWICKE.”

Parliament was again opened on the 16th of November, by a speech from the throne, which was prepared by Lord Chancellor Hardwicke. The principal point on which the opposition relied during this session, was the resistance of the proposal for taking Hanoverian troops into British pay. A full account of the debate in the

House of Commons on this subject was given by Mr. P. Yorke in a letter to his brother Joseph, in which he stated, "Pitt grows the most popular speaker in the House of Commons, and is at the head of his party."

In the House of Peers, when the Lords took into consideration the several estimates of the expense occasioned by the forces in the pay of Great Britain, a grand debate ensued, which was opened by Earl Stanhope, who moved an address to the King to beseech His Majesty, in consideration of the great expenses incurred by the number of foreign troops in the pay of Great Britain, that His Majesty would be pleased, in compassion to his people already oppressed with very heavy taxes, to exonerate his subjects from the burden of those mercenaries who were taken into our service last year, without the advice or consent of Parliament.

Secker says that the originator of this address wished to have put off his motion, and applied to Lord Chancellor Hardwicke and others for the purpose; but that could not be obtained. On this occasion, the same authority informs us that Lord Stanhope "spoke a pre-composed speech, which he held in his hand, with great tremblings and agitations, and hesitated frequently in the midst of great vehemence; but his matter was not contemptible."

He insisted that the House of Austria was incapable of being raised, that other states were indifferent about it, and we unable by reason of our debts: that our army was where it was not wanted: that Parliament was not consulted, because their consent was not so likely to be obtained as their acquiescence; and that the money for these troops, though raised long before, was intended for some other secret purpose. The country these troops came from, made it probable that they would frequently

be engaged, and affairs abroad embroiled for the sake of lending them. Some regard, he contended, ought to be had to the opinion of the people.

Lord Sandwich argued that the measure brought the Crown into danger from France, and shook the opinions of the people at home. Whoever advised the King to take these troops without the consent of Parliament, was an enemy to his country. The King should rely on his English guards: we ought not to pay for troops not intended to assist us: a jealous opposition should be made to all Hanoverian measures.

Lord Carteret defended the proceeding, and asserted that these troops were not taken into pay without the consent of Parliament; nor until the Commons had agreed to pay them, and the Lords thanked the King for what he had done. The measure was absolutely necessary to repress the power of Spain.

Lord Bathurst complained of the immense standing army, and increasing national debt; but concluded with saying that France had borrowed that year five millions, and paid nine per cent; [but then,] adds the Archbishop in a parenthesis, [the principal will never be paid!]

The Earl of Bath, who, as Mr. Pulteney, had been a flaming patriot, opposed the motion, and even went to the length of declaring that he considered it an act of cowardice and meanness to fall passively down the stream of popularity, to suffer his reason and integrity to be overborne by the noise of vulgar clamours, which had been raised against the measures of Government by the low arts of exaggeration, fallacious reasonings, and partial representations,—the very language which Sir Robert Walpole had often used against Mr. Pulteney and his confederates, in the House of Commons.

Several other Peers spoke in the debate.

Lord Chesterfield said there could not be a greater contempt of the Parliament shown than in this instance. We had neither an ally in Germany, nor a prince that would take our money. Ministers adopted this measure to ingratiate themselves with the King, but the whole nation was universally against it.

Lord Lonsdale observed that none of the lords in the administration had at all declared during this discussion what was to be done with these troops.

Lord Chancellor Hardwicke spoke last in the debate, when the subject might be supposed to be nearly exhausted, and to require more than ordinary vigour and resource to enliven it. The question before the House was one of a very important nature, and one, moreover, respecting which considerable excitement prevailed.

It appears, on first consideration, a singular point to urge in favour of a measure, especially by so great a constitutional authority, that the other House had approved of it; but when we bear in mind that with the House of Commons rested the granting the supplies for the maintenance of these forces, and how jealous the people, whom the Commons represent, have ever been of standing armies, especially of foreign ones, the adoption of this line of argument on such an occasion does not seem unreasonable.

Lord Hardwicke's reference to the use of different legislative bodies in the state, and the mode in which he points out this, is very fine and deeply philosophical.

It is the prerogative of the Crown, he argues, to make treaties; Parliament only has to support or repudiate them, and to carry on the war. It was necessary at once to engage the troops, and this was essential for carrying out the treaty; besides, it would look like a fraud to summon Parliament just at that period, merely

to approve of such a measure. Before a treaty is ratified, it need not be laid before Parliament.

The soundness of the theory of a balance of power among states, and the real necessity of preserving this, are well explained in this speech. To do this, he contends, the power of France must be repressed, which can only be effectually done through the aid of these troops.

The nature of popularity, and the duty of despising it, and how worthless it really is, are well and philosophically pointed out.

That England, not Hanover, is benefited by this aid, but that Hanover, and not England, was endangered by the union of the monarchy, he argues with probably rather more ingenuity than solidity at the close of his address.

Perhaps it is not to be regretted that this latter, like many of the other topics debated in Lord Hardwicke's time, ceases to be a subject of practical importance at the present day. The remarks which follow fell on this occasion from Lord Chancellor Hardwicke :—

“ My lords,—Having very attentively observed the whole progress of this important debate, and considered with the utmost impartiality the arguments which have been made use of on each side, I cannot think the question before us doubtful or difficult ; and hope that I may promote a speedy decision of it by recapitulating what has been already urged, that the debate may be considered at one view, and by adding some observations which have arisen to my own thoughts on this occasion.

“ It is the privilege and the duty of every man who possesses a seat in the highest council of his country to make use of his own eyes and his own understanding, to reject those arguments of which he cannot find the force, whatever effect they may have upon others ; and to discharge the great trust conferred upon him by consulting no conscience but his own.

“ Yet, although we are by no means to suffer the determinations of

other men to repress our inquiries, we may certainly make use of them to assist them ; we may very properly, therefore, inquire the reasons that induced the other House to approve those bills which are brought before them, since it is not likely that their consent was obtained without arguments, at least probable, though they are not to be by us considered as conclusive upon their authority. The chief advantage which the public receives from a legislature formed of several distinct powers is, that all laws must pass through many deliberations of assemblies independent of each other, of which, if the one be agitated by faction or distracted by divisions, it may be hoped that the other will be calm and united ; and of which it can hardly be feared that they can at any time concur in measures apparently destructive to the commonwealth.

“That the consent of Parliament was not asked, my lords—supposing it a neglect, and a neglect of a criminal kind, of a tendency to weaken our authority, and shake the foundations of our constitution, which is the utmost that the most ardent imagination or the most hyperbolic rhetoric can utter or suggest—may be indeed a just reason for invective against the ministers, but is of no force if urged against the measure. To take auxiliaries in our pay may be right, though it might be wrong to hire them without applying to Parliament ; as it is proper to throw water upon a fire, though it was conveyed to the place without the leave of those from whose well it was drawn, or over whose ground it was carried.

“To make treaties, as to make war, is the acknowledged and established prerogative of the Crown. When the war is declared, the Parliament is indeed to consider whether it ought to be carried on at the expense of the nation ; and if treaties require any supplies to put them in execution, they likewise fall properly at that time under parliamentary cognizance : but to require that treaties shall not be transacted without our previous concurrence, is almost to annihilate the power of the Crown, and to expose all our designs to the opposition of our enemies before they can be completed.

“It has been shown, that the general scheme of policy uniformly pursued by our ancestors, in every period of time since the increase of the French greatness, has been to preserve an equipoise of power, by which all the smaller states are preserved in security. It is apparent that by this scheme alone can the happiness of mankind be preserved, and that no other family but that of Austria is able to balance the House of Bourbon.

“This equipoise of power has by some noble lords been imagined an airy scheme, a pleasing speculation which, however it may amuse the

imagination, can never be reduced to practice. It has been asserted that the state of nations is always variable, that dominion is every day transferred by ambition or by casualties, that inheritances fall by want of heirs into other hands, and that kingdoms are by one accident divided at one time, and at other times consolidated by a different event; that to be the guardians of all those, whose credulity or folly may betray them to concur with the ambition of an artful neighbour, and to promote the oppression of themselves, is an endless task; and that to obviate all the accidents by which provinces may change their masters, is an undertaking to which no human foresight is equal; that we have not a right to hinder the course of succession for our interest, nor to obstruct those contracts which independent princes are persuaded to make, however contrary to their own interest, or to the general advantage of mankind. And it has been concluded by those reasoners, that we should show the highest degree of wisdom, and the truest, though not the most refined policy, by attending steadily to our own interest, by improving the dissensions of our neighbours to our own advantage, by extending our commerce, and increasing our riches, without any regard to the happiness or misery, freedom or slavery, of the rest of mankind.

“I have made this digression, my lords, I hope not wholly without necessity, to show that the advantages of preserving the equipoise of Europe are not, as they have been sometimes conceived, empty sounds, or idle notions; but that by the balance of one nation against another, both the safety of other countries and of our own is preserved; and that therefore it requires all our vigilance, and all our resolution, to establish and maintain it.

“That there may come a time in which this scheme will be no longer practicable, when a coalition of dominions may be inevitable, and when our power will be necessarily exalted above the rest, is indeed not absolutely impossible, and therefore not to be peremptorily denied. But it is not to be inferred, that our care is vain at present, because, perhaps, it may some time be vain hereafter; or that we ought now to sink into slavery without a struggle, because the time may come when our strongest efforts will be ineffectual.

“If our wealth, my lords, is diminished, it is time to confine the commerce of that nation by which we have been driven out of the markets of the Continent, by destroying their shipping, and intercepting their merchants. If our courage is depressed, it is depressed not by any change in the nature of the inhabitants of this island, but by a long course of inglorious compliance with the demands, and of mean

submission to the insults of other nations, to which it is necessary to put an end by vigorous resolutions.

“If our allies are timorous and wavering, it is necessary to encourage them by vigorous measures ; for as fear, so courage, is produced by example : the bravery of a single man may withhold an army from flight, and other nations will be ashamed to discover any dread of that power which France alone sets at defiance.

“On this occasion, my lords, it is necessary to consider the nature of popularity, and to enquire how far it is to be considered in the administration of public affairs. If by popularity is meant only a sudden shout of applause, obtained by a compliance with the present inclinations of the people, however excited, or of whatsoever tendency, I shall without scruple declare that popularity is to be despised ; it is to be despised, my lords, because it cannot be preserved without abandoning much more valuable considerations. The inclinations of the people have in all ages been too variable for regard. But if by popularity be meant that settled confidence and lasting esteem, which a good government may justly claim from the subject, I am far from denying that it is truly desirable ; and that no wise man ever disregarded it. But this popularity, my lords, is very consistent with contempt of riotous clamours, and of mistaken complaints ; and is often only to be obtained by an opposition to the reigning opinions, and a neglect of temporary discontents ; opinions, which may be inculcated without difficulty by favourite orators, and discontents which the eloquence of seditious writers may easily produce on ignorance and inconstancy.

“It is so far from either evident or true, my lords, that Great Britain is sacrificed to Hanover, that Hanover is evidently hazarded by her union with Great Britain. Had this electorate now any other Sovereign than the King of Great Britain, it might have been secure by a neutrality, and have looked upon the miseries of the neighbouring provinces without any diminution of its people, or disturbance of its tranquillity ; nor could any danger be dreaded, or any inconvenience be felt, but from an open declaration in favour of the pragmatic sanction.

“Why the hire of troops of any particular country should be considered as an act of submission to it, or of dependency upon it, I cannot discover ; nor can I conceive for what reason the troops of Hanover should be more dangerous or less popular at this than at any former time, or why the employment of them should be considered as any particular regard. If any addition of dominion had been to be purchased for the electorate by the united arms of the confederate army, I should

perhaps be inclined to censure the scheme as contrary to the interests of my native country; nor shall any lord more warmly oppose designs that may tend to aggrandize another nation at the expense of this. But to hire foreigners, of whatever country, only to save the blood of Englishmen, is, in my opinion, an instance of preference which ought to produce rather acknowledgments of gratitude, than sallies of indignation.”*

The question being then put upon Lord Stanhope’s motion, it was resolved in the negative by ninety voices against thirty-five. A protest against the rejection of the motion was entered on the journals.

Horace Walpole, writing to Sir H. Mann about this debate, says, “the late Privy Seal, Lord Hervey, spoke for an hour and a half with the greatest applause, against the Hanoverians, and my Lord Chancellor extremely well for them;”—warm praise from Walpole, considering his hatred of Lord Hardwicke.

The strongest opposition which was offered to the measures of the new government, was that which they experienced in their endeavours to support a bill which had passed through the House of Commons, with great precipitation. It repealed certain duties on spirituous liquors, and licenses for retailing these liquors, and substituted others at an easy rate. When those severe duties, amounting almost to a prohibition, were imposed, the populace of London were sunk into the most brutal degeneracy, by drinking gin to excess, which was sold so cheap that the lowest class of the people could afford to indulge themselves in one continued state of intoxication, to the destruction of all morals, industry, and order. Such a shameful degree of profligacy prevailed, that the retailers of this poisonous compound set up painted boards in public, inviting people to be drunk for the small expense of one penny, assuring them that they

* Hansard’s Parl. Hist.

might be dead drunk for twopence, and have straw for nothing ! They accordingly provided cellars and places strewn with straw, to which they conveyed those wretches who were overwhelmed with intoxication. In these dismal dungeons they lay, until they had recovered some use of their faculties, which they only exerted again to have recourse to this pernicious potion. A record of these scenes is still preserved to us in one of the works of Hogarth, where the doings in question are forcibly pourtrayed, and the notice referred to may be espied on the houses used for the sale of this destructive element.

In order to check this evil, the act above alluded to had been passed. But the people soon broke through all restraint. Although no license was obtained, and no duty paid, the liquor continued to be sold in all corners of the streets ; informers were intimidated by the threats of the populace; and the justices of the peace, either from indolence or corruption, neglected to put the law in execution. The new ministers foresaw that a great revenue would accrue to the Crown from a repeal of this act; and this measure they thought they might the more decently take, as the law had proved ineffectual. It appeared, moreover, that the consumption of gin had considerably increased every year since those heavy duties were imposed. They therefore contended that, should the price of the liquor be moderately raised, and licenses granted at twenty shillings each to the retailers, the lowest class of people would be debarred the use of it to excess, their morals would be improved, and a large sum of money might be raised for the support of the war by mortgaging the revenue arising from the duty and the licenses. On these principles the new bill was framed, and was passed through the

House of Commons without opposition. In the Lords, however, it gave rise to the keenest debate which had taken place since the commencement of the present Parliament. Lord Hervey attacked the bill, and dwelt on the pernicious effects of that destructive spirit they were about to let loose on their fellow-creatures. On the 21st of February, he moved that three physicians, Dr. Mead, Dr. Leigh, and Dr. Barker, might be summoned to give their opinion concerning the drinking these liquors. Lord Chancellor Hardwicke said it was a thing unheard of to ask advice of physicians about a money bill, because there was a liquor concerned in it. Other money bills related to solid food : would you inquire about that also ?

The next day the bill was read a second time. Lord Hardwicke did not speak on this occasion. The measure was strongly opposed by Lord Hervey, for the reasons before mentioned, and several of the Bishops expatiated on the same topics, and the whole of them voted against it. When the question was put for committing the bill, and the Earl of Chesterfield, who had also attacked it with great vehemence, saw the Bishops join with him in the division, he exclaimed, “ I am in doubt whether I have not got on the other side of the question, for I have not had the honour to divide with so many lawn sleeves for several years.”

The debate on the bill for further quieting corporations, which took place on the 11th of March, 1743, offered another opportunity well suited for the display of the Chancellor's powers ; and afforded a subject of a grand constitutional nature, peculiarly adapted for his particular turn of mind.

It appeared by the report of a committee, that the minister had commenced prosecutions against the mayors

of those boroughs who had opposed his influence in the election of members of Parliament. These proceedings were founded on ambiguities in charters, or trivial informalities in the choice of magistrates. An appeal on such a process was brought into the House of Lords; and this evil falling under consideration, a bill was prepared for securing the independence of corporations. The measure was opposed by the government, and rejected on a division, agreeably to the recommendation of the Lord Chancellor.

Lord Hardwicke's speech, on this occasion, from which select passages are here extracted, goes so fully into the merits of the whole question, without reference to the particular arguments that had been urged by the previous speakers, that it is unnecessary to allude to the latter.

The general principles which he lays down for dealing with matters of this nature, are well worthy of attention; and the comparison of political and natural life, and the distempers incident to each, are happy and apt similitudes, which are ably carried out.

The proper province and boundary of the duties of different branches of the Government are well described, and the constitutional remedies provided for certain specific evils pointed out. For this purpose, however, he goes on to show that the present measure is inefficient and inapplicable.

The true principle of prescription, and the method in which it has been dealt with by our laws, are clearly explained, and an argument drawn from this is made to bear effectively against the measure before the house.

The strong feeling of the English people in favour of the liberty they enjoy, and the danger of exciting their

apprehensions with respect to the invasion of these, are forcibly urged.

On the whole, this speech, for the knowledge of constitutional principles which it displays, the sound legal argument which it contains, and the philosophical manner in which the whole subject is handled, is eminently deserving of an attentive perusal.

“Lord Chancellor Hardwicke.—My Lords—As no human institution can be so absolutely perfect as to be free from all inconveniences, it requires great judgment and foresight to choose that which will be exposed to the fewest or least dangerous consequences. This is the most that can be done by human wisdom ; and to do this, requires the strictest scrutiny, the most mature deliberation.

“In political as well as natural life, my lords, I believe there may be such a thing as hypochondriacism ; and politicians, who have had the misfortune to be subject to this distemper, may suppose our political constitution to be infected with maladies, or exposed to dangers, which have no foundations but in their own crazy imaginations. I am far from thinking that the danger intended to be guarded against by this bill is of such a nature ; but we should be careful, lest by contriving remedies for imaginary evils, we expose our constitution to real, which is often the case of hypochondriacs in natural life. It is the business of the Crown to take care that every member of the society conforms himself to those laws and regulations which are established for the good government and happiness thereof. It is the duty of the Crown to prosecute those that do not, and to exact the penalties and forfeitures offenders have incurred, when the good of the society requires rigour ; and the performance of this duty must necessarily be lodged in the hands of the ministers and servants of the Crown.

“We know how jealous the people are of the liberties and privileges of our cities and corporations ; we know that an attempt upon, or rather the actual invasion of, their liberties and privileges was one of the chief causes of that general discontent which brought about the Revolution ; and our passing such a bill would make most people suspect that some attempts of the same nature had lately been made. Is this a proper time to give any ground for such a dangerous suspicion ? We are already engaged in one dangerous war ; we are, I may say, upon the brink of being engaged in another. Is such a conjuncture proper for raising a

suspicion, which must produce such a general discontent, as may not only encourage our enemies to invade us, but crown their invasion with success?

“For these reasons, my lords, though in general I approve of the design of the bill, though I think it fundamentally right, yet, as I think it unnecessary, as I cannot approve of the form in which it is at present, and as I think it would be extremely dangerous to pass any such bill at this juncture, I must be against its being committed.”*

On the 21st of April Parliament was prorogued. The speech from the throne was prepared by Lord Hardwicke. It is hardly necessary to state, that immediately afterwards the King embarked for Germany. His Majesty was accompanied by the Duke of Cumberland, Lord Carteret, and other distinguished persons. Nineteen Lords Justices were appointed for the government of the kingdom during His Majesty's absence, of which Lord Hardwicke was one.

Mr. Charles Yorke terminated his university career at Cambridge at the end of the year 1742, when he entered as a student of Lincoln's Inn. Mr. Philip Yorke wrote to his brother Joseph, on the 15th of December, 1742,—

“Charles is watering the Quorum of Bennet, ten miles round; or, to speak less quaintly, is treating away at Cambridge, which he thought an essential form before he quite gave up the University for Lincoln's Inn.”†

Charles himself writes thus to “Joe,” on this occasion:—

“I have left the University, not without some regret I own, tho' I wo^d not have chosen to stay much longer, and am fitting up the chambers which you may remember were designed for me. Enquiries are making after a servant and other things, which I shall want; so that

* Hansard's Parl. Hist.

† Hardwicke MSS., Wimpole.

you will soon learn I am a retainer to the law; and, as Mr. Pope says, ‘*warring with—words—alone.*’ ”*

The following admirable letter was addressed by Mr. Charles Yorke to his father, soon after the former entered at Lincoln’s Inn :—

“*Lincoln’s Inn, Jan. 25, 1742-3.*†

“MY LORD,—On taking possession of my chambers last night, several thoughts came into my mind, some of which have so near a relation to your lordship, that I wou^d flatter myself it may not misbecome me to open them. And the first which naturally arose in it, were my most grateful acknowledgements for the time your goodness allowed me to continue in the University, before you called me to the study of the Law; in which tho’ I have not made the improvements I could wish, yet I hope that little attention I have given to letters may be of lasting use to me, by inspiring me with a principle of rational ambition, and furnishing me with means to attain the proper objects of it.

“Your great example in that scene of life, which I am preparing to enter, suggests many things to me, which it is fitter for me to weigh than to explain: only thus much I am free to declare, that no advice or destination, not even your lordship’s, could have induced me to think of the Bar, if I had not previously determined to exert my utmost diligence in the *studious*, & all the courage and abilities I am master of, in the *active* part of the profession. This is what I have sometimes been desirous of saying, but as the subject is to me very interesting, I have rather chosen to entrust it to paper, which will be more unmoved than myself in the delivery of it. I need not desire your Lordship, who is so used to dis-

* Hardwicke MSS., Wimpole.

† Ibid.

tinguish the expressions of men from their intentions, to lay no weight on mine, till a few years shall prove them to be the genuine dictates of my heart. I am, with the truest respect and affection, your lordship's most

“Obliged and dutiful Son,

“CHA^S. YORKE.”

Mr. C. Yorke, in a letter to his eldest brother, written in October of this year, says,—

“I am universally derided for going down to Westminster at the beginning of a Michaelmas term, and not keeping at home till after y^e 5th of Nov^r. I am so dull, y^t I do not as yet find it very advantageous, and consider my present attendance and dependance on the K.'s Bench, (to use L^d B.'s words,*) as a cruel time-killer.”†

In a letter from Joseph, now become Captain Yorke, from the Hague, to his father, in January, 1743, he says,—

“The great character your lordship universally bears throughout the places where I have been, makes me still more watchfull upon all my actions, that, tho' I am allways sure with my utmost emulation to follow *non passibus equis*, yet by your merit being set up in a fairer point of light, it makes me allways studious to do nothing unworthy of your name.”‡

In November, 1742, Lord Chancellor Hardwicke selected the Hon. William Murray to fill the office of Solicitor-General.

Of the career and character of this distinguished advocate, who became in after years so justly celebrated as

* Alluding to a letter from Lord Bolingbroke to Lord Hardwicke; *vide post*, p. 53.

† Hardwicke MSS., Wimpole.

‡ Ibid.

the great Lord Mansfield, it is unnecessary here to say much. He was born at Perth, in 1704, and was the fourth son of Viscount Stormont. In 1719, he was admitted at Westminster school, and concluded his education at Oxford. For several months after taking his degree, he travelled abroad; and was called to the bar in 1731, by the Honourable Society of Lincoln's Inn.

It has been said that he was for some time without practice, and that he himself declared that he never knew the difference between a total want of employment, and £3,000 per annum. On the other hand, it has been urged in contradiction to this that, the year after he was called, he was engaged in an important appeal case, with the Attorney and Solicitor-General; and that in the two following years he was frequently retained in similar proceedings before the House of Lords. His name appears very often in Lord Chancellor Hardwicke's notebooks of the cases in Chancery heard before him, and Mr. Murray's arguments seem to have excited much attention, and are in several instances recorded very fully. In 1737, Pope, who had formed a friendship with him, published his Imitation of the sixth epistle of the first book of Horace, which he dedicated to Mr. Murray, and thus referred to his practice at the bar of the House of Peers.

“Graced as thou art with all the power of words,
So known, so honour'd in the House of Lords.”

His chambers were at this time at No. 5, King's Bench Walk, Temple, to which allusion is made by Pope in another of his poems.

The first cause in the common-law courts in which Murray distinguished himself was an action for criminal conversation, brought by Theophilus Cibber against Mr. Sloper. Mr. Murray's leader being taken ill, he

had to conduct the defence himself, which he did so ably, that his client escaped with a very small penalty. From this time he had ample business.

In the proceedings already described, which took place in Parliament in consequence of the Porteous riots, Mr. Murray was employed to oppose the bill for incapacitating the Provost and fining the city; and on account of his great exertions on this occasion was presented with the freedom of the city of Edinburgh in a gold box.—Lord Hardwicke's analysis of Mr. Murray's argument here has already been given.

The number of brilliant men of genius, such as Mr. Murray, either at the bar or in the world, as compared with those of ordinary practical minds, is but few indeed. But, perhaps, these last make the most useful members of society as a body, and it may be well for the world that they form so overwhelming a majority as they do. Like the common culinary herbs, possessing little beauty in their appearance, and neglected for the showy flowers which adorn our lawns, while the end of the latter is only to please, the former are essential to our support. The proportion of practical men in society to the men of genius is seen in a cause. They are to the gifted few, what the jury are to the judge. They bring common sense and sound observation to bear on the case, while he alone possesses profound learning and exalted wisdom, and views all the niceties and minute points involved. He directs them, but it is they alone who act. Thus, throughout society, the genius of the age has its large share of influence on mankind of all classes; but it is the practical men of the world only who are seen the real agents in each undertaking. In Mr. Murray, however, there was a singular and happy union of the man of genius and the practical man. When the

varying powers of the two are thus found in one person, what great results in his career may we not anticipate!

During the King's visit to the continent at this period, he was on one occasion in great personal danger, and displayed considerable bravery. This occurred at the battle of Dettingen, where the French army was completely routed, although with much loss to the allies. Generals Clayton and Monroy were killed; the Duke of Cumberland, who exhibited proofs of astonishing courage, was shot through the calf of the leg, and Lord Albemarle, and other persons of distinction, were wounded. The King exposed his person to a severe fire of cannon as well as musketry; and rode between the first and second lines with his sword drawn, encouraging the troops to fight for the honour of England.

Charles Yorke, in a letter to his brother Joseph, written from London on the 28th of June, 1743, says—

“The rejoicings here have been universal. The King's behaviour was worthy of a great Prince, and will tend to conciliate the affections of the deluded part of his people, as well as silence the tongues of the malevolent.

“I have no news to write except what is the consequence of what came from y^e banks of y^e Mayne. London has been illuminated two or three nights. The Tower guns fired, tho' critics say, since we are no more than Auxiliaries, we should not so far assume the merit, or seem pleased with the consequences of the battle, as if we had been engaged as principals.”*

Dr. Herring, who had been lately consecrated Archbishop of York, wrote to Lord Hardwicke on the 10th of June, giving an account of his journey into the North, and

* Hardwicke MSS., Wimpole.

taking possession of his See, in which says he, "I am placed by the King's favour, through your Lordship's friendship."*

From some of the correspondence which at this period took place between the members of the Government, it appears that, even on the subject of foreign affairs, which might be supposed to be quite out of his province, the Lord Chancellor's opinion was eagerly sought for by his colleagues. The sound sense, extensive knowledge, historical more especially, and comprehensive views of Lord Hardwicke, were no doubt of essential value here.

In a letter of the 14th of October, 1743, from the Duke of Newcastle to Mr. Stone, which accompanied some papers relating to this department of the Government, the Duke stated—

"When my brother has read these letters, you will send them to Lord Chancellor, and send this letter to you with them. * * *

"I suppose my brother will see the Chancellor, and they will determine what they will do.

* * * * *

"Pray desire Lord Chancellor to send back the letters, and this letter, to Mr. Ramsden, and order him to send them to Claremont.

"I shall be in town on Monday noon, and will meet my brother at Lord Chancellor's on Monday evening."†

Lord Orford, on one occasion about this time, when he was dining with a Tory friend in the country, fell down stairs. In a letter to Mr. Pelham, he mentioned, "Horace will give you an account of my accident. It has been a bad affair, but the escape from greater harm truly wonderful. It has been said, this comes of dining with the Tories; but I trouble them not much, and they me as little."‡ Possibly, the reader may be led to suspect

* Hardwicke MSS., Wimpole.

† Coxe's Pelham Administration.

‡ Ibid.

that extraordinary conviviality must have prevailed on this extraordinary occasion.

Lord Chancellor Hardwicke presented his friend the Chancellor of Ireland with his picture during the course of this year, as a token of his esteem for him. The following is Lord Chancellor Jocelyn's acknowledgment of the gift.

*"Dublin, August 2nd, 1743.**

"MY LORD,—Your noble present is lately arrived after a tedious voyage. The painter was resolved to exhaust his art, & indeed nothing is wanting or to be wished for, but that air, which without flattery, we all admire in the original, but despair of meeting in any copy. Tho' I want words to acknowledge, as I ought, y^e Lords^{'s} great goodness to me, yet I shall always retain a gratefull sense of it, & especially your bestowing so much of y^r time as must have been necessary to compleat so finished a piece.

"I have lately sat to two of our best masters. I cannot say y^t I was at any time much pleased with either of their performances, but since I have your picture, I am much more dissatisfied with both. Wee every day expect Mr. Slater from London, whom I have heard much commended; as soon as he comes, he shall try his hand; for tho' I can't hope to send you a good piece, unless from him, yet I will endeavour to send the best this place can afford.

"When I received the honour of y^r Lords^{'s} letter by Mr. Justice Yorke, he found me confined by a severe fit of y^e gout. I have since had two returns, which tho' not so violent, came very unseasonably in term time. Mr. J. Yorke came time enough to take his seat in Easter term, & by what I have heard, or been able to

* Hardwicke MSS., Wimpole.

observe, I have no doubt but he will discharge his duty to satisfaction, & I shall lay hold on every opportunity of making his employment agreeable to him. It is y^e least I can do for a person who is honoured with your recommendation.

“ I am with great truth and respect,

“ My Lord,

“ Y^r Lords^{h^{ts}} most obliged,

“ & most faithful humble serv^t,

“ ROBT. JOCELYN.

“ Mrs. Jocelyn sends her best compliments to my Lady Hardwicke.”

A letter from Mr. Justice Yorke, who was a distant relation of Lord Chancellor Hardwicke's, and who had lately been appointed through his interest to a Judgeship in Ireland, was written to Lord Hardwicke soon after the above, thanking him warmly for the favour he had conferred, and making honourable mention of Lord Chancellor Jocelyn's kindness towards him.

Lord Chancellor Hardwicke, in a letter to his eldest son, dated August 30th, mentions that the day before,

“ About noon, I received a letter from Major-Gen^l Huske, written to Mr. Adair, dated from Mayence, Aug^t 29, n. s., cont^g the good news that, tho' Joe has been very ill there of a fever, he was then in a perfect good way of being well ; that the General himself had staid there the longer on his account, & that all possible care was taken of him ; that there is no question of his perfect recovery, & that he (Joe) is convinced of it himself, which contributes a good deal to his cure.”*

* Hardwicke MSS., Wimpole.

On the 20th of September Lord Hardwicke wrote thus to Captain Yorke, congratulating him on his recovery :—

“ You have the highest reason to be thankful to God for his preservation of you, & to express that thankfulness by a steady pursuit of the resolution, which I rejoice to find you express, of adhering to the ways of religion, virtue, & honour thro’ the course of your life, which is the best return you can make both to him & me. You are, in the next place, extremely obliged to your friends, who have taken care of you, particularly to Gen^l Huske. . . . I take it for granted that your illness has left you weak, & therefore am glad the physicians have forbid yr return to the army this season. . . . I have been allways for your steadily & dilligently pursuing the honourable profession you are engaged in, & am strongly so still; but notwithstanding that, the necessary occasions of health must be attended to, & proper caution to avoid a relapse is never any loss of time. . . . I will write to Sir P. Honeywood, . . . or perhaps to Lord Carteret, to speak to the King for leave for you to come over. We all long to see you.”*

Some official correspondence, which is not of much interest, took place between the Duke of Newcastle and the Lord Chancellor, relative to the appointment of Mr. Pelham as First Lord of the Treasury, on the death of Lord Wilmington, which occurred about this time. The notification of Mr. Pelham’s appointment was communicated to him in a letter from Lord Carteret, who was abroad with the King.†

Lord Bolingbroke, a little after this, again renewed his correspondence with Lord Chancellor Hardwicke. The

* Hardwicke MSS., Wimpole.

† Coxe’s Pelham.

first of the letters which follow requires no comment or explanation:—

*“ Battersea, Oct. the 19th, 1743.**

“ MY LORD,—I came to this place from Aix-la-Chapelle on Saturday last; that, after endeavouring to re-establish my health, I might have an opportunity of settling my private affairs a little better than they have been hitherto settled, & as well, if that be possible, as they require to be for the case of a man who proposes to pass his remains of life at a distance from them. The execution of this scheme will call me very seldom to London, but the pleasure of seeing y^r lordship, & of acknowledging & cultivating the friendship you have long honoured me with, should call me thither at any moment when I knew that you would be most at leisure to receive the visits of, my lord,

“ Your lords^{ps} most humble & most obedient servant,

“ H. ST. J. L. BOLINGBROKE.”

In the next letter, Lord Bolingbroke made an appointment for calling on the Lord Chancellor, but whether merely for the purpose of friendly intercourse, or in order to communicate to him some matters of political importance, as at a later period he was in the habit of doing in this manner, does not appear:—

“ Battersea, Oct. y^e 20th, 1743.†

“ MY LORD,—I will take, since you permit me to do so, the first evening in my power to wait on you, and shall not fail to call at Powis House on Monday about seven. I say to call there, because if the time interferes with any business y^r lords^p may have, I desire you to put me off to another; for as little as I like dependence

* Hardwicke MSS., Wimpole.

† Ibid

& attendance in general, I shall always be pleased to depend & attend on you.

“I am, my lord, with great respect & truth, your lordship’s most obedient & most humble servant,

“H. ST. J. L. BOLINGBROKE.

“To the Right Honourable my Lord Chancellor.”

Note by the second Lord Hardwicke :—

“N.B. At this visit I was present for $\frac{1}{2}$ an hour, the only time I ever saw L^d B.”

Mr. Charles Yorke says, in a letter dated Oct. 25th :—

“Last night L^d Bolingbroke was at Powis House, & staid there near three hours. He wrote two billets, the one to ask leave that he might wait on my lord, the other to say he accepted the appointment, and wo^d call at 7 o’clock.”

Lord Bolingbroke again wrote, and made another appointment for an interview with Lord Hardwicke, and mentioned in direct terms his intention of communicating to him information of which he was in possession, by means of his correspondence with persons abroad who were engaged in some of the machinations then in progress against this country, but whose designs Lord Bolingbroke seems to have had no scruple in betraying.

The vacation of this year Lord Hardwicke passed principally in the country. Mr. Philip Yorke, in a letter written in August to his brother Joseph, affords a brief account of the family movements at this period.

“We have spent a pleasant week here [Stoke, in Northamptonshire,] with our friend Philip Ward, seen all the fine places in Northamptonshire, w^{ch} is a county

that abounds in them, & are preparing to return to Rest, from whence papa and mama (who met us at Stoke) will set out for London ; & after a short stay there come down with the *Fratres Hackneiani* & Peggy, to spend the remainder of the vacation in Bedfordshire.”*

A ridiculous report is referred to in another paragraph respecting the King of Great Britain at the battle of Dettingen.

“ I co^d not help smiling at a story the common people amuse themselves with in France. They allow that the King was in the action, but aver that he had a great marble slab carried before him by way of shield.”

A more serious matter is mentioned in the same letter.

“ We are here not without apprehensions of y^e plague, which has raged at Messina in a terrible manner. A quarantine is ordered, but merchants are so greedy of gain, and our discipline so lax, that God’s providence must be chiefly relied upon to preserve us from that dreadful calamity.”†

The Lord Chancellor, in a letter which was written from London, afterwards tells his eldest son, who was then at Wrest,—

“ Being now more at ease than I was, I intend (God willing) to set out to-morrow morning with Jack & Jemmy, who are wondrous happy in this expectation. Mr. Clerke also will fill the fourth place in the coach, & give us the favour of his company ; & we all hope to have the great pleasure of finding you, Lady Grey, &

* Hardwicke MSS., Wimpole.

† Ibid.

Charles in good health, within a few hours after this comes to your hands.”*

The Archbishop of York, in a letter to the Lord Chancellor, written at the same time, in which he states —“ your lordship had so great a share in placing me in this situation,”—seems to intimate that the Chancellor’s health at this period was not very strong, at which also other correspondents appear to hint.

“ It was some pain to me to hear y^r lordship appeared a little fatigued at the conclusion of y^e business, w^{ch} I hope is all gone off by quiet, & air, & exercise.”†

During the present vacation, Lord Chancellor Hardwicke’s newly acquired mansion at Wimpole was undergoing repair, which prevented him and his family from spending their autumn there, as they had lately done. Mr. P. Yorke therefore invited them to visit him at Wrest. Mr. C. Yorke, in a letter to his last-named brother, written early in the vacation, mentioned—

“ Last night we came to town, & papa seems every day more confirmed in the notion that he shall have no comfort in spending his long vacation at Wimpole. He is not used to workmen, & hates their company. The stables, & the foss at the bottom of the court where the iron work stood, are unfinished.”‡

Lord Hardwicke wrote thus to Mr. P. Yorke, from Powis House, in October:—

“ Tho’ your mother has already transmitted my thanks, with her own, for our most kind obliging & agreeable entertainment by you, & my Lady Grey, at Rest, yet I must here repeat my sincere acknowledgments

* Hardwicke MSS., Wimpole.

† Ibid.

‡ Ibid.

to you both on that head ; & add that I never in my life spent a vacation with greater pleasure, or found more benefit from it than from this last. The satisfaction of mind which I received there must have contributed very much to it ; & the hard'ning, which the air & exercise of Rest gave me, enabled me so well to stand the cold air we met with at Derham's, that I did not in the least feel it otherwise than in a mere bloodshot eye, & that is now in a manner gone."

* * * * * *

" My books, having finished their quarantine, are come home, having just been opened & aired at Dr. Mead's. Besides the Roman Virgil, there is the first volume of the Pope's busts in the Vatican, w^{ch} seem to be finely engrav'd, with references to the books, both ancient & modern, that treat at all of those heads."

* * * * * *

" I congratulate you on the increase of your family. Lady Grey's maid (*ancillam dico non virginem*) was this morning brought to bed of two lusty chopping girls ; & it is said that another in the same neighbourhood did last night produce three. Increase of subjects in time of war is a good thing."*

Mr. Charles Yorke wrote a letter to his brother Joseph, congratulating him upon his recovery, and gave him an account of the different matters of public interest, which were at this time stirring.

" The town swarms with strange reports, and strange pamphlets ; as it generally does towards the latter end of a long vacation, & near the time of a new session.

* Hardwicke MSS., Wimpole.

Infinite are the conjectures concerning projected alterations in the Treasury, & the resignation of a great officer, whose place we are told, like that of husband to Queen Dollabella, in Hurlothrumbo, is put in commission. I shall not enter at all into the matter, being both too ill informed, & too prudent, to find it worth while to relate what I hear, or proper to relate what I think.

“ Of pamphlets, the most extraordinary which has visited the press a great while, is one just come out, entitled “ Faction Detected by the Evidence of Facts,” ascribed to a considerable hand, (the E. of B.)”*

On the 15th of November the King returned to England, & experienced striking proofs of the national discontent, arising from his supposed partialities to the electoral troops. In the address presented by the City of London, congratulating His Majesty on his safe return, on the birth of his royal grandson, Prince William Henry, and on the marriage of the Princess Louisa with the Prince Royal of Denmark, not the least allusion was made to the battle of Dettingen. The livery, also, chose Mr. Robert Westley for their Lord Mayor, in opposition to Sir George Champion, who was warmly supported by the court.

On the 24th of November there was a meeting of the Cabinet Council, on the subject of the convention made subsequent to, and explanatory of, the Treaty of Worms, to which the King’s consent had been given when he was abroad, and without the knowledge of his ministers in England.

Of the proceedings at this meeting, Lord Chancellor Hardwicke has left very full minutes in his hand-

* Pulteney, Earl of Bath.

writing, including a report of his own sentiments, of which there is the following note :—

“ Lord Chancellor delivers his opinion against ratifying y^e convention, with his reasons at large, & concludes to advise His Majesty not to ratify the convention as signed ; but that His Maj^y will be pleased to cause proper instances to be made at y^e Court of Vienna, that a new treaty or convention may be substituted in lieu thereof, for paying to the Queen of H. a subsidy of £300,000 for y^e ensuing year.”*

The following allusion to the above discussion at the council board, is contained in the Introduction to Mr. Yorke’s Parliamentary Journal.

“ The debates rose so high on this occasion, that it was reported the Lord Chancellor refused to put the seal to the convention as it then stood, and that Lord Carteret went so far as to declare that the King should affix it himself.”†

Parliament was opened on the 1st of December, by the King in person. The draught of the speech from the throne is in Lord Hardwicke’s handwriting.

On the 9th of December, a motion was made by Lord Sandwich in the House of Peers, for an address beseeching His Majesty to discontinue the Hanoverian troops in British pay, in order to remove the prevailing discontent, and stop the murmurs of the English troops abroad. He was supported by the Duke of Bedford, the Earl of Chesterfield, and all the leaders of the opposition. They contended that better troops might be hired at a smaller expense ; and that the popular dissatisfaction against these mercenaries was so general, and raised to such violence, as nothing but their dismissal could appease.

* Hardwicke MSS., Wimpole.

† Coxe’s Pelham.

The following account of the speech of Lord Chancellor Hardwicke, who replied to Lord Chesterfield on this occasion, occurs in the Parliamentary Journal of his son, before quoted from. The arguments in the speech are too much confined to the mere circumstances of the case, to render its insertion here desirable. Lord Carteret replied to Lord Hardwicke.

“I am sorry I did not take notes of Lord Chancellor’s speech; to give an account of it upon memory would be to do injustice. It was certainly a judicious, and masterly performance, and gave a general satisfaction. Two principal points upon which it turned were, 1st, the impossibility of hiring other troops in time, if these were dismissed; and 2nd, the impropriety of grounding a resolution of the House upon vague rumours, and stories of jealousies and partialities not coming in a proper manner before them, or supported by any authority but what was called public notoriety.”*

One passage in this speech, which is as applicable to many other questions and occasions as to that on which it was spoken, I cannot forbear quoting an account of the sound wisdom it contains, and the statesmanlike principles it inculcates.

“My lords, when discontents are founded upon real grievances, I shall grant they ought to be removed as soon as possible, by redressing the grievances that gave cause to them; but when discontents are entirely groundless, or founded upon imaginary grievances, by attempting to remove them any other way than by instruction and proper discipline, you will increase them.”†

Lord Sandwich’s motion was rejected by the House.

On the 27th of January, 1744, when the question of supply came before the Lords, the motion was renewed by Lord Sandwich. During this discussion, Lord Chancellor Hardwicke, in reply to what had fallen from Lord Gower, who accused the ministers of “evading

* Hansard’s Parl. Hist.

† Ibid.

the debate by quibbles and subterfuges," administered the following mild and dignified, but forcible rebuke:—

"My lords, it was not without some wonder that I heard the noble lord who spoke last but one give way so far to an intemperate zeal as to utter some expressions, neither wholly decent, nor in any degree just; and to charge those who happen to differ from him in their opinion with quibbles and subterfuges. My regard for him inclines me to wish that such an aspersion had been thrown rather by any other person; but my consciousness of my own integrity hinders me from feeling any pain from it, however highly I may think of him from whom it fell."*

The next letter which we find addressed by Lord Bolingbroke to Lord Hardwicke contains a request for some preferment in the church for a friend. There is no copy of the Chancellor's reply among his papers. The same warm expressions of regard and veneration for Lord Hardwicke here made use of by this gifted writer occur in several of his letters.

"Battersea, Jan. the 31st, 1743-4.†

"MY LORD,—When I was last in town I did myself y^e honour to call att Powis House, in hopes of paying my respects to y^r lords^p. I shall do y^e same again whenever I am att London, that I may neglect no opportunity of expressing my regard for one to whom I owe, & for whom I feel so much. Will you give me leave barely to mention, and without any intention to importune your l^d^p, a desire I have, and that y^e goodness of y^r own heart will approve in mine. There is a young clergyman whose father was attached to me with uncommon fidelity and zeal above thirty years. I never could do any thing for him. I should esteem myself happy if I could do something for his son, who has a small living near Bristol. This circumstance, and the illness of an old

* Hansard's Parl. Hist.

† Hardwicke MSS., Wimpole.

Prebend of that church, whose name is Waterman, made me think of addressing myself to your lord^p, in this manner, & without the knowledge even of the person for whom I am a suitor. If I ask any thing improper, be pleased to forget that I asked it. If it be not improper, and the young man's character will not make it so, allow me to conclude by recommending him to y^r remembrance and favour.

“ Adieu, my honoured lord ; all happiness attend you, and all success in your endeavours for the publick good. I am with true respect, y^r lordsp^s most obedient, & most humble servant.

“ H. S^t. J. L. BOLINGBROKE.”

Lord Chancellor Hardwicke mentioned to Mr. Charles Yorke that he found himself unable to accede to Lord Bolingbroke's application, owing to his not being satisfied with the principles of the young clergyman in question ; of which conversation Mr. C. Yorke gave the following account in a letter to Mr. Warburton, which reflects high credit on the conscientious concern of the Chancellor.

“ Riding in New Park one morning with my father, the discourse turned on my Lord Bolingbroke, who had formerly recommended H.'s son to him for a living. He said that he sho^d have been willing to gratify him with something of a sinecure, if any such thing had offered ; but, considering old H.'s attachments, & that the young man had been bred a Papist in foreign countries, he was unwilling, (considering too that the Great Seal was only a trustee for the Crown in the disposition of livings,) to give him a cure of souls.”*

An event now occurred, which was calculated to produce the deepest sensation throughout the nation, and

* Hardwicke MSS., Wimpole.

to unite, for a time at least, in one bond of union, all the different factions and parties within the kingdom, however bitterly they had before been opposed to one another. This was the preparation for an intended invasion of this country by France, which that nation was encouraged to attempt from the apparently great dissensions, and dissatisfaction with the government, which at this period prevailed in England.

Active and efficient measures for the protection of the country were at once generally adopted. Several regiments marched to the southern coast of England; all governors and commanders were ordered to repair immediately to their respective posts; the forts at the mouth of the Thames and the Medway were put in a posture of defence, and directions were issued to assemble the Kentish Militia, to guard the coast, in case of an invasion. A general spirit of loyalty seemed to be at once excited throughout the nation, and people of all ranks hastened to offer their services.

The following is from Mr. Yorke's Parliamentary Journal:—

“Feb. 24.—The Duke of Newcastle and Mr. Pelham laid before both Houses, by His Majesty's order, copies of letters and intelligences relating to the invasion, which have since been made public, together with the resolutions which they came to in consequence of this communication. The Lords' address was entirely owing to the Earl of Orford's speaking, who got up after the Duke of Newcastle had sat down, without moving anything, and said, ‘though he had determined within himself upon no occasion whatever to trouble their lordships, yet the present was of so extraordinary a nature, that he hoped to be indulged in a few words. He then wished his former apprehensions about France and the Pretender, by which he drew a good deal of ridicule upon himself, had not been so soon and so fully verified. He enlarged upon the insolent attempt of the former in sending a fleet to range along the coasts of England, to look into our harbours, and ride triumphant in the Channel; its perfidy in breaking through the most solemn treaties, by giving protection and assistance to the son of the Pretender to his Majesty's

crown, and endeavouring to impose him, by an armed force, upon the nation, and the evasive and contemptuous answer which the Court of France had lately returned to the King's just demand; that perhaps to his intemperate zeal, it might seem a want of it to their lordships—1st, not to make a suitable return of duty to the King, and of resentment for the indignity offered to the whole nation—2dly, after having heard such material intelligences, surely words would soon be found to express their sense on this occasion; and though it should appear to some a repetition of what they did the other day, he thought it by no means an unreasonable or superfluous one.' Lord Orford spoke this with an emotion and spirit which showed it came from his heart, and was quite unpremeditated. The weight of it was immediately felt, and the Chancellor having collected the general sense of the house, formed a resolution, which was unanimously agreed to, and ordered to be laid before the King, by the lords with the white staves.”*

From some of the accounts given of this debate, it would appear that the Earl of Orford's rebuke was directed more particularly against the Chancellor, although his son makes no allusion to this. Lord Hardwicke had, indeed, been that day engaged in hearing an important appeal to the House of Lords, in the case of *the Countess of Warwick v. the Earl of Cholmondeley*, which Lord Campbell† has discovered, by reference to the journals, was one of the three decrees of Lord Hardwicke that were appealed against, but in each of which cases his decisions were affirmed. Lord Orford is reported, on this occasion, to have concluded his speech in the following terms:—

“Permit me to rouse you from this lethargy. Let the noble and learned lord on the woolsack submit to the sacrifice of postponing, for a little while, the calling in of counsel to argue about costs, while we show so much regard for the great, the universal, the national interest, as to concert a proper form of address to his Majesty, that he may not appear labouring for our safety,

* Hansard's Parl. Hist.

† Lives of the Chancellors.

while we neglect what is due to our Sovereign and to ourselves.”

Mr. Yorke further states, in his Parliamentary Journal, “April 3. Both Houses met this day, pursuant to their adjournment. The King made a speech to them, which, together with the Lords’ address, were compositions of the Chancellor, and met with general approbation.”

Some correspondence, as to who should prepare the address, appears to have taken place between the members of the government; and also as to who should make the motion. Lord Carteret, in a letter to Lord Hardwicke, dated April 1st, says, “I joyn with y^e Duke of Newcastle in desiring y^r lordship to draw y^e address, w^{ch} no one can do so well. I have neither speech nor motion, leaving what I had with L^d Bath. My gout is not gone off, but I am in good spirits.”* The Earl of Bath, on the same occasion, wrote the following polite and complimentary note to Lord Chancellor Hardwicke.

“*Piccadilly, April 2nd, 1744.*†

“MY LORD,—I return your lordship many thanks for the address, which is most extremely well drawn up. I undertook the moving it at y^r lordship’s request, and upon that express condition that you was to draw it; and now I have read it, I am grieved to think so fine a thing should have been so poorly introduced, as I fear it will be, by

“Your Lordship’s

“Most humble and most obed^t serv^t,

“BATH.”

The following fine passage in his Majesty’s speech, which is copied from the rough draft in Lord Hardwicke’s

* Hardwicke MSS., Wimpole.

† Ibid.

handwriting, is at once striking and dignified, and expresses the loftiest feelings of a patriotic sovereign.

“To me it is the truest satisfaction, and must be the greatest security to my government, that just at the time of entering into this war, I have had such solemn assurances and pledges of the fidelity and good affections of my people.

“Whatever colours may be endeavour^d to be put on these injurious proceedings of the court of France, I can appeal to y^e whole world for y^e rectitude and equity of my conduct, always steadily directed to the defence of the ancient allies of my crown, conformably to treaties; to the preservation of y^e balance and liberties of Europe, and y^e maintenance of y^e commerce and essential interests of my kingdom, pursuant to y^e advice of my Parl^t, without invading y^e rights of any other power.”

A bill was brought into the House of Commons, by Mr. Fazakerley, whose name has already been mentioned on a very important occasion,* and who was at this time one of the leading members of the opposition, the object of which measure was to prevent correspondence with the sons of the Pretender. No particular discussion respecting it took place in the House of Commons.

In the Lords, however, where the bill was introduced on the 27th of April, an animated debate occurred, in consequence of two clauses which were proposed by the Lord Chancellor as amendments; one to attain the sons of the Pretender, in case they should attempt to land; and the other to extend the attainder and corruption of blood to the children of those who should be convicted under the act.

The first of these clauses was unanimously agreed to. The second of them produced a warm controversy,

* *Vide ante*, Vol. I., p. 363.

being strenuously resisted by the Duke of Bedford, the Earl of Chesterfield, and the Lords Talbot and Hervey, who denounced it as an illiberal expedient, contrary to the dictates of humanity, the law of nature, the rules of common justice, and the precepts of religion; an expedient that would involve the innocent with the guilty, and tend to the augmentation of ministerial power. It was defended with great ability by the Lord Chancellor, Lord Bathurst, the Bishop of Oxford, Lord Carteret, and the Duke of Newcastle, who contended that it was no less just than necessary, and would most effectually deter the parties themselves from acts of rebellion.

The following is from the Parliamentary Journal of Mr. Philip Yorke*—

“April 27th.—Lord Chancellor opened the amendments to the bill for making it treason to correspond with the Pretender’s sons, in a very clear and masterly manner. The first was to attain them of high treason in case they landed, or attempted to land in England; the second was to suspend the operation of a clause in an Act of the 8th of Queen Anne, by which forfeitures of estates were to be confined to the person offending after the Pretender’s death, during the lives of his two sons likewise. He showed that governments could not be fenced with too strong securities against crimes of so heinous a nature as treason and rebellion; that it was highly reasonable to consider these young men in the same light with their father, since the eldest of them had actually asserted his title to the crown of Great Britain, which, as it was said, he claimed by virtue of a voluntary cession from the Pretender, and attempted to make it good by invading us with an armed force of foreigners; that this practice of putting the heirs of traitors into the power of the King, as to the recovery of their estates, was an ancient part of the common law, and derived its origin from the old Gothic governments; it was also a part of the Roman civil law; and the reason of it was evident, that the love of their children might make parents more affectionate to their country, and deter them from disturbing the peace of it; for many men would make no scruple of hazarding their own lives in rebellious attempts, who would yet be cautious how they exposed their families to disgrace and poverty. He said if the Pretender

* Hansard’s Parl. Hist.

came he would not think himself bound by that clause, but would proceed in the same manner which his predecessors had practised against those who had been most active in opposing his claim; therefore it was reasonable to guard the Royal Family on the throne with the same terrors which the Pretender had in his power, or else they would not stand upon an equal footing. He compared forfeitures for high treason with forfeitures for felony, and said there was the same reason for continuing the one as the other, that the law might not be inconsistent with itself; he could not look upon it (properly speaking) as punishing children for the crime of their parents, since they could never be said to have a right to what it was not in the power of the latter to dispose of at the time of their deaths; that it was in the nature of the thing absurd that a man's land should not be forfeited as well as his money, which would still remain in the power of the crown whenever the clause of the 8th of Queen Anne took place. I will not pretend to repeat all the arguments which either he or others urged in the debate, since this whole subject is so fully discussed in a late excellent pamphlet entitled, 'Considerations.'*

"The Duke of Bedford and Lord Chesterfield were the chief speakers against the clause, and Lord Carteret supported the Chancellor, but in a declamatory, superficial way. I remember he threatened us with another invasion, and threw out a great many terrors on that head, asserting that both at Versailles and Madrid they talked of renewing it soon with a much greater force.

"The amendments to the Commons' bill passed without any division; but it did not find so easy a passage through the other house."

The speech, which was on this important occasion delivered by Lord Chancellor Hardwicke, and of which Mr. Yorke's report gives an accurate outline, is deserving of deep attention, and is among the most remarkable which he ever made, as regards the legal reasoning and constitutional knowledge which it displays. It is, moreover, particularly valuable as containing probably the most masterly exposition of the principle of the English law of Forfeiture to be met with in our language.

He commences by tracing the origin of our laws re-

* Considerations on the Law of Forfeiture. Written by Mr. Charles Yorke, but published anonymously.

specting forfeiture to their earliest foundation; shows their antiquity and the mode in which they have been carried out from the most distant to the present times; and exhibits the free spirit of the institutions from which they sprang.

The reasonableness of the principle of this law he proceeds to illustrate by arguments of different kinds, drawn both from nature, and the general system and practice of law, civil as well as common.

He moreover shows how, under the Roman law, the practice of forfeiture was adopted and carried out, and how during the first ages of Christianity; and also how this principle has been since recognized in the legal code of every Christian land.

He then traces the existence and the adoption of this principle through the earlier stages of our history; and proves it to be quite consonant both with justice and religion, and absolutely necessary to the security of the commonwealth.

The beneficial moral effects of such a law, and the restraint by it of extravagant passion, and violent enthusiasm, he illustrates very philosophically, and points out how these failings are prevented from excesses by such a law; and in the same spirit he evinces how all the different feelings and passions of the mind may be availed of to keep persons requiring this restraint in due bounds, by legal expedients of this nature. Occasional passages in this speech will be found of deep thought, high eloquence, and extraordinary power.

Referring to the topic last adverted to, he observed:—

“ I shall admit, my lords, that a man who is governed by an extravagant passion, or a mad enthusiasm, may be ready enough to run the risk of sacrificing his family and children, as well as himself, to his passion or enthusiasm; but both in the extravagance of passion and the

madness of enthusiasm there are several degrees, and though no fear can perhaps be a restraint upon those men that are in the highest degree, yet the fear of ruining a man's family and children will have an effect upon those that are in a lesser degree, and certainly upon many of those who could not be restrained by the fear of any personal danger. Every day's observation, my lords, will inform us with how much alacrity men expose themselves to danger, and with what patience they endure fatigues and hardships for the advantage of their families. And it cannot, I think, be imagined that the passions which produce so much virtue will not also prevent wickedness; or that those who willingly sacrifice their quiet and their health will not, from the same motives, restrain their ambition, their revenge, or their avarice.

"As I have mentioned cowardice, my lords, I must take notice of the great advantage a government draws from the ruin a man's family is exposed to by rebellion. No man will acknowledge himself to be a coward: every man is afraid of being reputed such; but no man is afraid of saying he has a great regard for his family and children. Whilst a man has this pretence, he may with some countenance refuse joining with his friends, or with the party he has always professed himself of, in any rebellious measures; even though cowardice, or the fear of personal danger, be his real motive, he may make use of this pretence, and will make use of it as his excuse for refusing to join with his friends in treasonable practices. But, if you take this pretence from him, he can then pretend to no other excuse but the fear of the danger his person may be exposed to; and this is an excuse which very few will ever make use of. Nay, it has often been known that men have exposed their persons by actions which they did not altogether approve of, and upon occasions where they thought death almost inevitable, rather than give their companions and friends the least cause to suspect them of cowardice."*

Lord Chancellor Hardwicke also made the following powerful and eloquent reply, in answer to the Duke of Bedford, who during the course of the debate had alluded to the fate of his ancestor, William Lord Russell.

"The noble lord who spoke last has addressed the House in very pathetic terms, and endeavoured to inflame the passions of your lordships by a very moving picture of undeserved distress, the distress of children disinherited by the crime of their parents. But, my lords,

* Hansard's Parl. Hist.

he might have drawn a picture not less moving, had he employed his genius and his eloquence in displaying the terrors of a conspiracy, or the tumults of rebellion, in setting before you a nation filled with horror, distraction, and amazement; exposed to all the miseries of civil war, and filled with rapine, slaughter, and devastation. His picture was indeed affecting, but he did not show the whole object, nor enable us to compare the severity of him who seizes the estate of a rebel, with the inhumanity of him who, by a false indulgence to guilt, encourages rebellion."

The House of Commons found it necessary this session to appoint a committee to inquire into and consider the proper methods of enforcing the attendance of members. The committee presented their report on the 10th of May, and several resolutions were passed to effect the object in view. Among the orders referred to in their report, as relating to this subject, are the following:—

"*May 23, 1614.* An order was made that the House should sit at *seven of the clock in the morning.*"

"*Feb. 14, 1643.* The House resolved that if any member began or made a new motion after twelve of clock, he should *pay 5s.*"

On the 12th of May the session was closed by the King with a speech, the composition of the Chancellor.

The feuds in the cabinet, which had experienced a temporary suspension from the dread of an invasion, broke out soon after this with increasing acrimony; and the dismissal of Lord Carteret, or the resignation of the Pelhams, seemed inevitable.

The following is from an "Introduction to a Journal of Remarkable Passages in the Fourth Session of the Third Parliament of King George the Second," by Mr. P. Yorke:—

"Towards the conclusion of the autumn of 1744, the division between the Earl of Granville † and the rest of the ministers, was grown

* Hansard's Parl. Hist.

† Lord Carteret, who had succeeded to the former title.

to that height as to render it impossible for them to co-operate any longer in the king's service. At meetings on business, he exposed himself by the frantic sallies of an imagination heated with claret, and a behaviour sometimes overbearing and insolent, at other times complaisant, fawning, never cool and ingenuous. To the Chancellor he was particularly liberal of his professions, yet was secretly undermining him, and (if the other was not quite misinformed) had made an actual offer of the great seal to my Lord Chief Justice Willes. When the Lord Chancellor came to town in September, 1744, a resolution was taken by him, and his two great friends the Duke of Newcastle and Mr. Pelham, after maturely weighing the errors which had been committed in the management of the war, and the difficulties with which the vigorous prosecution of it would be attended, to put things if possible on a better footing against another year, and to begin by getting rid of so dangerous a minister as the Earl of Granville. It was thought desirable that the first steps in the good work should be to lay before the King a strong and clear representation in writing on the state of his affairs, which might afterwards be enforced in private audiences, and the finishing stroke put to it by convincing him of the necessity he lay under, for the benefit of his affairs, of parting with his favourite servant.

“The Chancellor undertook to be draughtsman of this paper, and when it had received the approbation of the two great persons above mentioned, and the Earl of Harrington, who were by no means sparing in their compliments to him upon the performance, it was communicated to the rest of the cabinet, viz. the Dukes of Devonshire, Dorset, Richmond, Argyle, and Montague, and they all engaged to support the measures recommended in it with all their influence. This very remarkable paper was allowed by all who saw it to be the composition of an able head and an honest heart. The Lord Bol——* in particular, after reading it, returned it to the Chancellor with this short testimonial in its favour, ‘My Lord, I will seal it with my blood.’”

The first of the following letters, which is from the Chancellor to the Duke of Newcastle, contains an account of one of Lord Hardwicke's conferences with the King, and affords some notion of His Majesty's manner of conversation and style of deliberation with his ministers. On this occasion, the King and the Chancellor had a

* Bolingbroke.

long discourse together on the subject of foreign affairs, which is here detailed, but which seems to have been somewhat abruptly terminated by the Sovereign.

“*Powis House, Sunday Night, Aug. 5th, 1744.**”

“MY DEAR LORD,—Though nothing very particular passed in my audience to-day, yet I would not go out of town, without acquainting your grace with it. My first business was to ask leave to go out of town, which the King received with great civility, expressed some concern for my health, &c. I then told him that I hoped he would in the mean time receive some good news from his army in Flanders, whose situation I was glad was so much changed for the better. His Majesty said, ‘Yes, he believed they were 30,000 men stronger than Mareschal de Saxe; and, at least, they would live upon the enemy’s country, and save some expense to the nation.’ I said, ‘that was very necessary; but hoped such a superior force would procure still more advantageous consequences.’ His Majesty replied, ‘that was uncertain; and the great danger *now* was from the King of Prussia.’ I said, ‘that I could not but hope, from his former conduct, that he would encamp and de-camp, march and countermarch; but that it would be a good while before he would venture to commit any active hostility against the Queen of Hungary, or her allies; and that he would be afraid to forfeit his guarantees for Silesia.’ To this the King said, ‘he does not value that of a farthing. Notwithstanding his secrecy, I know his design; he will march part of his army towards Prague, and another part into Bavaria. I wish Saxony could be assisted with a sum of money.’ To this I answered, ‘the King of Poland is already engaged to the Queen of Hungary, by treaties just made; and is so essentially interested, both as King and Elector, to prevent the King of Prussia from aggrandising himself on that side, that he can want no temptation to induce him to do all he is able to hinder it.’ The King replied, ‘all that is true, but he has no money; and what can he do without that?’ I said, ‘he is a Prince of greater power, and riches too, than many others, that ask subsidies; and has hitherto been able to keep up an army of 30,000 men.’ The King replied, ‘but he can’t put them in motion, without a supply of money: they are maintained for little in their own country, in time of peace.’ Upon this, I took the liberty to say farther, ‘that the large *additional subsidy*, which his Majesty had already granted to the Queen of Hungary, was an *additional* reason against the practicability

* Coxe’s Pelham.

of this Saxon demand, and, I hoped, would enable the Queen to do a great deal herself.' The King made no reply, but pulled some papers out of his pocket, so I made my bow.

"I was willing to let your grace know these circumstances, as probably something farther will be said about this affair, in the course of this week. I purpose to set out for Wimpole early to-morrow, and return on Friday evening; but, before that time, it will be impossible for me to finish my business, so that I cannot come back until then. After my return, I intend to stay till about the Thursday following."

The next letter is from the Duke of Newcastle to Lord Chancellor Hardwicke, who was then at Wimpole:—

"Whitehall, August 8-19, 1744."*

"MY DEAR LORD,—Nothing but the utmost necessity should make me interrupt you in your retreat, or endeavour to bring you to town a day sooner than you intended. But, I am persuaded the critical situation of things, and your goodness and friendship to me, will not only engage you to excuse the trouble I give you, but to comply with my request.

* * * * *

"The King is at present low, and consequently very complaisant; confines all he says to the present question, and the necessity of stopping the King of Prussia.

"My brother had a longer audience, and entered more fully into the matter with the King; showed a disposition to do what should be necessary for the support of the common cause; insisted upon the necessity of having the concurrence of Holland, that it might appear to be a British measure; had several flings at Lord Carteret's conduct and manner, without naming him; to which the King replied, that all that might be true but did not relate to the present question, which was the necessity of the thing.

"Upon the whole, my brother told him, that we would seriously consider it amongst ourselves; and that the King's servants must tell him what they would, and would not do. And the discourse ended by the King's desiring my brother to support, in our conference, what he desired, and asked

"My Lord Harrington and my brother will dine with me at Newcastle House to-morrow; and we hope your lordship will be so good as to be there, without fail, between three and four o'clock in the after-

* Hardwicke MSS., Wimpole. Coke's Pelham.

noon, that we may consult amongst ourselves what is to be done, before we meet Lord Carteret.

“My dear lord, all considerations, public and private, make this the most critical conjuncture and question ; and therefore I hope you will not refuse me to come to town ; for believe me in this, as in every thing, but more particularly in this, your opinion will have the greatest weight with me.

“P.S. I will send a messenger to meet your lordship to-morrow at Ware, with the letters received to-day, if I can get them from Lord Carteret.”

Another letter from Lord Hardwicke to the Duke of Newcastle, which was written a few days afterwards, when he had come to town, shows the activity of the Chancellor as a member of the Cabinet ; as also the modest opinion he expressed of his own powers as a politician. He appears, however, at this time to have been quite overworked by his multifarious and onerous duties.

In a letter from Mr. Pelham to the Duke of Newcastle written on the 26th of August, he says—

“I was at Court to-day, and designed to have gone in to the King after the drawing-room was over ; but, as Lord Carteret went in, and as I saw nothing particular in his Majesty’s countenance to make me over forward, I chose to put it off till to-morrow.”*

A disagreeable rural incident in the life of the Lord Chancellor, which formed a serious interruption to his enjoyment of the long vacation, is recorded in the following letter. It was, however, after all, no unusual thing for a public man, in those days, to set his foot on a hornet’s nest.

“*Rest, Aug. 30th, 1744.*†

“MY DEAR LORD,—I think myself obliged to begin with returning your grace my sincere thanks for your kind consideration of me, in so strictly adhering to your

* Coxe’s Pelham.

† Hardwicke MSS., Wimpole.

promise not to call me out of y^e country with^t absolute necessity. Indeed if yo^r messenger had brought a summons of y^t kind, it had been impossible for me now to have obeyed it from an unlucky circumstance, w^{ch} I hope will induce you to continue y^t indulgence to me as long as possible. In a little excursion I made fro' hence to a remote part of y^e country, I was so stung in one of my leggs by some insects or other, as produced such an inflammation and swelling that I have been forced to sit with it upon a stool, with my foot in a great shoe, (in y^e fashion of the gout,) ever since Friday last. It is, I think, going off with^t any other ill consequence; but from hence y^r Grace sees y^t I am hitherto no gainer by my recess, & shall want air and exercise more than when I set out fro' London. But this is a trifle."

The next letter is from the Duke of Newcastle to the Chancellor, who had returned to London:—

*"Newcastle House, Sept. 14th, 1744.**

"MY DEAR LORD,—I trouble your Lordship with another cargo of letters, in which you will see the present situation of our affairs. I am sorry to say that they are far from growing better."

He then goes on to detail the state of foreign affairs, and to comment fully on them, after which he continues—

"You know the great regard I always have for your opinion, and I hope you will give me leave to come on Monday night to Powis House, to confer with you, before we meet our other friends. My opinion is always the same, that the only means to act effectually for the public, and honourably for ourselves, is to remove the cause and the author of all these misfortunes, or to continue no longer ourselves: since we should, in some measure, be answerable for the general conduct of the ministry, though we should not be in a condition to direct affairs."

* Hardwicke MSS, Wimpole. Coxe's Pelham.

The requisite arrangements, says Coxe, being thus concerted between the two brothers and the Chancellor, the long-meditated attack was commenced. At the desire of the Duke of Newcastle, Lord Hardwicke drew up the sketch of a remonstrance to the King, against the foreign administration of Lord Granville, which has been already referred to, and which, when prepared, he sent to the Duke for perusal with the following note.

*“ Powis House, Sept. 20, 1744.**

“MY DEAR LORD,—I have the honour to send your Grace, enclosed, the fruits of my yesterday’s retirement. You will find them very unripe, and of a bad taste. I am sensible the paper is too long, contains both too much and too little, and must have many things pared off, others polished, and the whole made fitter for the condition of Majesty, and of ourselves. But I chose to put down the whole of my way of thinking upon the subject, as far as it goes, and have no fondness for any one word of it.

“I will put off my going to Rest till Saturday, that I may be at your grace’s service all this day and to-morrow, though I don’t imagine such a paper can be fully settled to the satisfaction of so many persons within that time. I propose to be in town again, upon next Tuesday fortnight.”

This paper of the Chancellor’s met with the warm approbation of the Duke of Newcastle, who recommended it at once to the consideration of his political associates, in the following letter, which was circulated among them.

“ Newcastle House, Sept. 20th, 1744.†

“The paper which my Lord Chancellor has been so good as to prepare, at the request of his friends, is the clearest and finest deduction that can be made; founded upon facts and experience, it states the just objections to the present conduct, and plainly points out the remedies to be pursued. And if it could be hoped that reason, set in the strongest light, would prevail, this paper alone would, and ought to determine, his Majesty’s future conduct, as to his measures and his ministers.

* Coxe’s Pelham.

† Ibid.

“As a measure of this consequence cannot possibly be determined in a day or two, and as it might not be amiss to have the opinion and concurrence of the rest of our friends in the cabinet council upon it, it is humbly submitted whether the execution of it may not be postponed until my Lord Chancellor’s return to town; and in the meantime, this great foundation, now laid by him, be considered and digested, so that it may be finally settled and executed soon after my Lord Chancellor’s return.”

More than a month was occupied in settling all the preliminary points; and at the end of October the memorial, which had been enlarged and amended in the interval, and in the fair draft copy of which appear several alterations and additions in the handwriting of Lord Chancellor Hardwicke, was completed by him.

The following is the indorsement on the fair draft copy of the memorial, also in the handwriting of Lord Chancellor Hardwicke.

“Draft of a paper relating to the state of the War.

“Deliv^d to the King, by the Duke of Newcastle, in y^e name of L^d Chanc^r, L^d President, himself, and M^r. Pelham, Nov^r. 1st, 1744, at about $\frac{1}{2}$ an hour after two o’clock, and sent back by his Majesty to Newcastle House, under a cover, sealed up, about $\frac{1}{4}$ before four, y^e same day.

“At the time of delivering it his grace acquainted the King that the Duke of Dorset, D. of Grafton, D. of Richmond, D. of Devonshire, D. of Montagu, D. of Argyll, and Earl of Pembroke, had been made acquainted with the contents of this paper, and entirely concurred in opinion with it.”*

The head prefixed to this memorial, and which is in the handwriting of the Duke of Newcastle, is, “Copy of a Paper presented to the King by the Duke of Newcastle, in the name of those Lords of the Cabinet Council

* Hardwicke MSS., Wimpole.

who insisted on the dismissal of Earl Granville, in November, 1744."

It commences as follows:—

"The transactions and events of the current year, and the near approach of the meeting of Parliament, have induced several of the King's servants, out of duty to His Majesty and concern for their country, seriously to consider the present critical situation of affairs, and the principles and methods whereby, in their humble apprehension, His Majesty's service may be carried on and supported in the next session.

"The great change which has lately happened in the posture of affairs abroad, makes it necessary to look back to the principal foundations upon which it was thought that measures of vigour and force might reasonably be pursued by Great Britain, for the defence of the house of Austria, and the maintenance of the balance of Europe, with any probability of success."

It then goes on to review minutely the present condition of foreign affairs, and the prospects with regard to them then existing. It refers to the conduct and opinions of the government on different topics connected with the above, and lays down the general principles on which this department of affairs ought, in the estimation of the memorialists, to be carried on in future; and traces the causes of evils which have arisen, and points out others which are likely to arise, from the pursuit of a particular course. A general pacification in concert with Holland, if practicable, is recommended; or should that fail, it will then remain to be considered what other system for supporting the war can be resorted to.

The memorial was, as already expressed by the indorsement on it, delivered by the Duke of Newcastle himself to the King on the 1st of November, in the name of the Lord Chancellor, Mr. Pelham, Lord Harrington, and himself, and with the approbation of several other members of the cabinet. The King did not read it in the Duke's presence. In a few hours, says Coxe, between three and four o'clock the same afternoon, it was calmly returned by His Majesty, without the slightest observation. But on the following day the remonstrance was enforced by Mr. Pelham, with equal firmness and judgment. The King, however, still appeared gloomy and reserved, and unwilling to sacrifice his favourite minister. The effect of these representations was described by the Duke of Newcastle in a letter to Lord Chancellor Hardwicke.

The Chancellor, in an audience with the King, expressed in firm but respectful language the united resolution of himself and his colleagues to resign, unless His Majesty acceded to their demands. The King, however, evinced great reluctance to the dismissal of Lord Granville, and to a change in the continental policy. His Majesty frequently replied with great dignity to Lord Hardwicke, "You would persuade me to abandon my allies; but that shall never be the reproach of my reign as it was of Queen Anne's, and I will suffer any extremities rather than consent."*

While affairs were in this position, the King directed the Pelhams to draw up a sketch of the intended speech to Parliament, that he might form a proper judgment of the measures likely to be recommended by them. The Duke of Newcastle, in a letter to the Lord Chancellor, written on the 16th of November, communicated the

* Coxe's Pelham.

following unpleasant intelligence to his noble and learned friend :—

“ His Majesty began by expressing great resentment and rage that the speech was not yet prepared ; that he had often ordered it ; that he wo^d have it done immediately, and much more to the same effect. My Lord Harrington, my brother and I, therefore beg your lordship would be so good as to finish the draught of the speech as soon as possible, in such a manner as you shall think proper.”* A draught of the speech was accordingly presented to His Majesty by the Lord Chancellor, which, on the 23rd of November, produced a transcript in the King’s own handwriting, with several alterations, supposed to have been suggested by Lord Granville ; and in particular an assurance that he would agree to no peace until *all his allies were satisfied*. This clause was strenuously opposed by the Pelhams, and the King at length contented himself with the simple avowal that he would not abandon his allies.

Lord Granville after this made several overtures to different parties to obtain their support, and among them to the Prince of Wales and Lord Orford. The general feeling, however, in favour of the Pelhams and their adherents was very decided ; and, on the 23rd of November, the King announced to Lord Chancellor Hardwicke his resolution that Lord Granville should retire from the government, and on the following day the seals of Secretary of State were transferred from him to Lord Harrington.†

Parliament met on the 27th of November. The speech from the throne, and also the address of the Lords were prepared by the Chancellor, as appears by the drafts of them in his handwriting.

* Hardwicke MSS., Wimpole.

† Coxe’s Pelham.

Mr. Yorke says in his journal, that—

“The Chancellor and his friends were induced, for certain reasons, to open a treaty with Chesterfield, Gower, and Cobham, and till this was brought to an issue one way or other, no business could be transacted in Parliament. Several meetings were held before the alterations could be settled, and many rubs and difficulties intervened, which my information does not enable me to enter into the particulars of. I believe, on good grounds, that Cobham’s spleen and positiveness created more disturbance than anything else. Gower and Chesterfield both acted moderate and healing parts. They professed all along to act under the authority and with the approbation of their party. The old ministry made the preservation of their friends their first and principal object, as was sufficiently apparent when the changes were declared, which was done, and the new writs moved for December 22nd, after which both houses adjourned till January the 10th. As Mr. Pitt would accept of nothing but the secretaryship of war, and an expedient could not be immediately found out to dispose of Sir W. Yonge, or, as others said, to make the King easy under his removal, he continued independent, but gave strong assurances of being satisfied with the present system, and determined to support it.”*

Other changes in the ministry were also made at this period. Lord Chesterfield was recommended to be Lord Lieutenant of Ireland; and at the same time selected as ambassador to the Hague, for the purpose of inducing the States-General to declare war against France. When his nomination was proposed by the Duke of Newcastle, His Majesty peremptorily answered, “He shall have nothing. I command you to trouble me no more with such nonsense; although I have been forced to part with those I liked, I will never be induced to take into my service those who are disagreeable to me.”

A letter from Lady Hardwicke to her son Joseph, which was written in April, 1744, with the other correspondence which follows, affords an account of the occupations of the family during the period which has lately been so much engrossed by political transactions.

* Hansard.

“Miss Drax had her assembly, and yesterday Lady Sandys had hers, besides a thousand people at Ranelagh breakfast, in a sharp north-east wind, bad for everything but Sir Charles Hardy, who may now sail if he pleases, tho’ it really blows a storm. . . . Last night Lady Heathcote invited us all to breakfast at Ranelagh garden, but the weather must mend before I venture, for you know I have promised you all to be very careful of myself. . . . Your brother had the honour of waiting on the Dutch General to Powis House, on Sunday, but your friend is at his quarters at Hertford, but left his name for you before he went; with some other Dutch officer . . . I want you very much the long nights my Lord stays out . . . Let us hear as often as you can, since it makes so great a part of all our pleasure; for, be assured, we can never hear too often where we love so much, nor ever want anything but power to serve you to the height of your wishes. My Lord’s kind blessing, with the affectionate wishes of health and safety from your brothers and sisters, concludes this vile scrawl.”*

In another letter to Capt. Yorke, written in May, Lady Hardwicke tells him,—

“I hope your brother Charles excused my not writing to thank you for your letter, [as I was] setting out yesterday for Wimpole, to get up a bed or two for my Lord, y^t he might pass y^e approaching holydays there, and hope he will get a few days’ respite from business next week, w^{ch} will be very acceptable to him. . . . Edward, who you know has lived in the family above twenty years, was last week ordered into custody for delivering out writs as sealed, y^t never were sealed. The proof is thought very strong. He denies it, but all the world

* Hardwicke MSS., Wimpole.

thinks him guilty. After this, who can answer for another? when neither sense, knowledge, good usage, gratitude, nor profit joined together, could keep even so low a servant, as our porter, honest. God mend our morals, for society can't subsist as things are managed. Your brother and Lady Grey leave the town this day for the summer, w^h indeed, begins to be thinner of company, tho' Ranelagh is still crowded, and in fashion."*

Mr. Philip Yorke wrote to his brother Joseph during the same month. In reference to his father's speeches in the House of Lords, already described, on the Bill to prevent correspondence with the Pretender's sons, Mr. Yorke tells his brother,—

“ Patrus moved the clause in the House of Lords, & both in opening it, & replying to Lord Chesterfield, got great credit.”

Charles Yorke, in a letter to his brother Joseph, says on this subject—

“ Lord Chanc^r, in the House of Lords, opened these amendments with great dexterity & art. In the course of the debate, he replied to Lord Chesterfield with a very masterly eloquence. There were no performances in either House comparable to his upon these points.”†

The following news as to the political world is contained in the above letter of Mr. P. Yorke :—

“ The Parliament rises on Saturday, & the King went this day to Kensington, I hope & believe for the summer. But some of our speculators will not be persuaded still but that he goes abroad; & found themselves upon this, that no commander-in-chief is yet named for y^e army in

* Hardwicke MSS., Wimpole.

† Ibid.

Flanders. By your report it is not like to be numerous enough to invite His Majesty to put himself at the head of it.”*

Lord Chancellor Hardwicke himself wrote thus to his son Joseph, on the 29th of May.

“ Your letter arrived on Sunday morning, & made us extremely happy by hearing of the good health & spirits you continue in. . . . I thank you for the pains you have taken in informing me so particularly of the proceedings of the army since your first encampment, the rather as I find your narrative contains as many material facts as any of the letters I have seen. Your method is very right, & I desire you will continue your correspondence as punctually as you can, upon the same plan; for the stating of the facts *journallement* is both more informing to me, and less troublesome to you, as it is little more than transcribing your own journal. But it wo^d give us pleasure if upon any considerable events, or upon incidents more immediately concern^g yourself, you wo^d enlarge or extend your accounts into a few more particulars than possibly your journal may generally contain. For instance, we are curious to know in detail what passed upon your conducting the Archdutchess to the review; your particular part in it, & her R. H.’s *politesses*; and whether you were ordered in y^t service only in the course of a general rota of duty appointed amongst the aids-de-camp, or by a particular compliment from the Marshall. If the latter, you are highly obliged to him for it, & I desire you wo^d make my compliments to His Ex^{cy} on the occasion, & also return him my thanks in the politest manner for all his favours to you, which I consider as done to myself; adding that if

* Hardwicke MSS., Wimpole.

he has any commands for me here, I shall be proud to obey them.

* * * * *

“ I pray God preserve you in health and safety, & give success to the arms of the King & his allies in their just cause. The delays of certain councils often give me melancholy reflections; but I think that is mending both in England & Holland, which latter has more reason now to be satisfied with us than she had a little while ago. . . .

“ All your friends here are well: your bro^r & Lady Grey at Rest. Your mother sends you her blessing, & all of us join in the most ardent wishes for your preservation, honour, and happiness. I trust you will on all occasions remember your duty, & all the good advice I have so frequently repeated to you. . . . Pray write as often as you can.”*

A letter from Mr. P. Yorke to his brother Joseph, written from Rest, on the 18th of June, contains the following. After acknowledging his letters giving an account of the Archduchess's visit to the camp, which afforded much entertainment, Mr. Yorke proceeds:—

“ Your readers were by no means of the *vulgus criticorum*, but select & discerning ones,—viz. Patratus (who passed his short recess at the end of Trinity Term with us), Messrs. Clarke & Wray, *uxor amantissima*, & tho' last, not least in love, your humble servant. It is settled that you are for the future to be styled the Archduchess's knight, & to maintain the pre-eminence of her charms at all tilts, tournaments, &c. . . . It was not long ago universally believed that the K—g had determin^d to put himself at the head of

* Hardwicke MSS., Wimpole.

the army. It is now certain that scheme will not take place as yet.

* * * * *

“ My Lord & Charles left us this morning. The long vacation begins early this year, & the Powisians will pass it here, as they did last summer. Mr. Wray is with us, & desires to be remembered to you, so does Lady Grey, & so would my M——, if she could speak. We have been spectators of the “ Siege of Damascus ” & “ Alchemyst ” at Woburne. I never saw a more perfect performance than the latter. It far excelled the tragedy. The Duke & Lord Sandwich acted *Subtle* & *Face*; S^r F. Dashwood, *Able Druggier*. The scenes & habits were elegant & proper. Every thing was managed with good order. . . . I have not time at present to transcribe an imitation of Horace, w^{ch} we scribbled whilst papa was here, & addressed it to him, but you may expect it shortly.” *

Lady Hardwicke wrote to Captain Yorke on the 25th of June, sending him the following domestic news:—

“ My lord, with his kindest love & blessing bid me tell you he received your letter yesterday, & will take an opportunity of writing as you desired. He has had a feverish disorder upon him for some days, which confined him at home; but he begins business again this day, w^{ch} I hope will not retard his getting his spirits again very soon. Lady Jekyll is also come to town, to consult Mr. Chesselden. . . . She is feared to be in a very bad way, & will not hearken to the reasonable advice of her friends.” †

Mr. Charles Yorke, in a letter to Joseph on the 27th

* Hardwicke MSS., Wimpole.

† Ibid.

of June, mentioned, with respect to a military friend of the latter, before alluded to, that,—

“ On the last day of the session, my brother presented him to papa, who received him very handsomely, & furnished him with a good place for seeing the ceremony.”

Mr. C. Yorke says, in another part of his letter,—

“ Your journals, we have it from the best authority, contain as much informatⁿ as almost any letter that comes, & extracts are communicated at least to one secretary of state, if not to both. . . .

“ Mamma goes to Ranelagh this evg, where she has not been these two years.”*

The following narratives respecting a great & distinguished poet of this period, already alluded to, & whose death took place about this time, are extracted from some of the letters lately quoted. The first is from one of Mr. C. Yorke's, dated May the 29th.

“ Mr. Pope is not dead, but lost to all the purposes of life. He is frequently delirious, & continues weak. We can ill spare a man of so great a genius in these days. Had he lived ten years longer in health, as great things might have been expected from him, as ever were produced by him, & that in other ways of writing, w^{ch} wo^d have shewn his facility in every species of his art.”†

Mr. Pope died on the 30th of May, 1744. In a letter written on the 18th of June, Mr. P. Yorke says, that by his will—

“ He has left to Mrs. Blount the interest of his for-

* Hardwicke MSS., Wimpole.

† Ibid.

tune, which amounts to above £4000, dur^g her life, after which the principal is to go to his half sister. His MSS. he consigns to Lord Bolingbroke, either to be preserved or destroyed. He leaves to Mr. Warburton the property of such of his printed works as he has or shall write notes upon. His library is to be divided between him & Allen, except 60 books, w^{ch} shall be left to the choice of Mrs. Blount. Mr. Allen has likewise another legacy of £150, in return for the favors Mr. Pope has received from him, & upon his refusal it is to be given to the Bath hospital. The literary world can ill spare so great a man at this time.”*

The next paragraph respecting Pope, is from a letter of Mr. Charles Yorke, dated June 27th.

“Death has at last made an end of his greatness, & the plans which he had formed for odes of the sublime kind, epic poems, &c., must now prove abortive, & lye hid in Lord Bolingbroke’s study, instead of being brought out to view for the increase of his own fame & fortune. He was fond of Erasmuses principles in matters of religious opinion, & the last thing he said that had either sense or wit in it was to Spence, of Oxford, who attended him in his illness, alluding to this favourite character. Spence earnestly recommended it to him to call in another physician. ‘No,’ says he, ‘I am weary of them. They have all mistaken my case, & a new one will but add new blunders to the former. It would be like quitting the errors of the Church of Rome for the errors of the Church of England.’”†

Lord Chancellor Hardwicke, in a letter to his eldest

* Hardwicke MSS., Wimpole.

† Ibid.

son, dated June 28th, afforded an account of his occupations at this time.

“As soon as I came to town, I found myself in such a hurry of publick business, that, till this moment, I have had no time to make my acknowledgments to you & my Lady Grey, for the great refreshment & pleasure I received at Rest.

“The first thing which created some uneasiness, was the declaration which the King made, & y^e positive order which he gave on Tuesday se’nnight in the morning, for his going abroad. Since that, His Majesty has had the goodness to hear his faithful servants on y^t subject. I had a long audience of him on Sunday last, & on consideration of y^e whole, with the intelligence he had received, he did that day change his resolution, & countermand his orders, so that difficulty is now absolutely over.

“I had a long conference with my Lord Orford, relating to the affair of the officers of the Exchequer, concerning which I showed you his lordship’s letter, & another paper. The resolution that we came to was, that it would be prudent & advisable for the officers to make the practice of Queen Anne’s war the rule of their proceedings from the time of the declaration of the war ags^t France, rather than to give a handle for an application to Parliament. Upon this foot the deputies in the several offices have had a conference amongst themselves, & have come to this determination, & Mr. Longueville informs me that the auditors will be satisfied with it.

“Charles told me he had proposed to you an excursion into the North this summer. As I think the exercise of it may contribute to both your healths, I shall

be glad to promote y^r accommodation in it all I can, of w^{ch} he says he informed you. He also promised to send you three letters from Joe, the most punctual correspondent in the world.

* * * * *

“Remember the judges on the 12th July, & to settle your list of presents of venison.

“All here join in their best compliments to yourself & lady Grey. Pray convey mine to Mr. Wray, & tell him *otium divos rogo*.”*

Mr. Yorke, in reply to this letter, wrote to Lord Hardwicke and informed him,—

“We are extremely glad that you found the benefit of your short refreshment here on your return to business, & we hope that it will encourage you to make the same use of this place dur^g the long vacation which you did last year, & that mama & the rest of the family will think themselves welcome to the same entertainment as they were pleased to be satisfied with then.

* * * * *

“I rejoice y^t your lordship’s sober & well timed advice has prevailed with His M——y to put off his going abroad. There were many unanswerable objections against it, w^{ch} I dare say had their full weight from your mouth. The town says one great motive was the news of preparations at Dunkirk being begun

“Mr. Wray desires his most respectful compliments.” [The foll^g is in the latter gentleman’s handwriting.] “He by no means joins in your prayer, till you have found somebody that can do the public business as well.”†

The letter which follows is from Lady Hardwicke to

* Hardwicke MSS., Wimpole.

† Ibid.

Captⁿ Yorke, and appears to allude to some encounter in which this young officer had been engaged.

“MY DEAREST CHILD,*—The terror & pleasure yo^r two last affectionate letters gave me, w^{ch} came both together, is not easily expressed. I thou^t of no dangers but those of our enemy, & yet without God’s immediate protection & blessing, with what danger wee are encompassed, for his great goodness to you in yo^r late deliverance, may wee be as thankful as we ought, & by that means draw down his Almighty protection, without whose powerful aid, what is wisdom, or strength, or favour? To y^t Great Being I hourly pray for yo^r particular protection, as well as for mercy to this country where I live, y^t our crying sins may not draw down his judgment upon us. We find many faults with your conduct, & say you want every thing but valour. God knows what you can say for yo^rselves, but I praise your saying nothing of y^e present posture of affairs, for without power to help, talk is y^e province of silly women like myself. But I shall never cease my ardent prayer for mercy. Dutch & Austrian measures, I tho^t of last year, as I doe this, & let y^t suffice. The only good news I can send you is, y^t my lord is much better for the short rest he had in the country, where I wish he cou^d have staid some time longer, but business forced him back, where I fear y^e hurry of mind & body is too great for any man at his time of life to bear. . . . Charley is at Rest with his brother; they & Lady Grey came & dined with us one day whilst we were in the country, & I think my lord resolves to spend his vacation there, if he can get any leisure. A full family will be better for him, & besides he wou^d have so many workmen about him at

* Hardwicke MSS., Wimpole.

Wimple, & no stables ready for his horses, y^t it wou^d have made him uneasy had much company come to him. My dear love, write to us when you can, but not to interrupt any sleep you can get, w^{ch} is so necessary to labour, & be assured any letter you write to me shall be communicated to y^e family, who will rejoice to hear of your welfare; whether it be addressed to me, or them. Once more, God Almighty bless you, to whose protection I commit you, being with unfeigned love,

“Yo^r ever affectionate,

“M. HARDWICKE.

“My lord’s kind blessing, & yo^r sisters, love attend you.

“*July 12.*”

On the 6th of August Lord Hardwicke wrote a letter to Captain Yorke from London, in which he gives some account of himself and of the rest of the family:—

“Having finished my Chancery campaign, & being gone into quarters of refreshment, I lay hold of this first opportunity to thank you for all your letters, & particularly your last. You have been very good in writing so regularly. It gives us satisfaction here, & must be of advantage to yourself; & your journal has been as informing as any accounts I have seen from the army, except the Marshal’s own. . . . The scene is now opened to you, & God grant it may be clos’d with success & glory! Your march into the enemy’s country, & turning some of the calamities of war upon the authors of them, gives much satisfaction here, & fills the people, who reason hastily upon these subjects, with very sanguine hopes. . . .

“I shall set out to-day with your mamma for Whaddon, in order to survey the operations at Wimpole, & give some directions ab^t y^e finishing, which I hope will

be completed in October. We propose to return to this place the end of y^e week, & in a few days after to proceed to Rest for our vacation residence. We wish extremely for your company, the rather as your brothers intend to set out to-morrow with Mr. Wray on their northern expedition, wherein they will make y^e Archbishop of York's their head quarters. I am sorry they give you any cause to think them bad correspondents. I am sure it don't proceed from want of affection or regard; & indeed I sho^d imagine some of their letters must have miscarried, for both Mr. Yorke & Charles have spoke of their having writ to you within the time you mention.

* * * * *

“As we are anxious for the public, so we are particularly for your preservation. You are engaged in a good cause. God keep you in health, virtue, & honour, & cover your head in y^e day of battle. Your mother joins with me in our blessing, & most ardent wishes for you.”*

In a letter to Mr. P. Yorke, written on the same day as the above, the Lord Chancellor tells him—

“Make my respectful compliments to y^e Patriarch of y^e North.”

The following is from a letter of Lord Chancellor Hardwicke to his son Joseph, dated “Rest, Aug. 29 :”—

“You are very polite in concealing y^e name of your schoolfellow on occasion of his frolick; but it was known here from y^e first y^t Captain Rose was the person. You are in the right in disliking such vagaries. The true rule is to decline no danger or hazard when your duty

* Hardwicke MSS., Wimpole.

requires it, or the service can be advanced by it ; but y^e same service makes it a duty not wantonly to solicit it.

“ I thank you for y^e concern you express for my health. My cough, which proceeded only from a cold caught in the term, was never very bad, & is, I thank God, quite removed by y^e little air I have had since the seals were over. Your mother & I, with sister Pegg & y^e Hackneians, came to this place on y^e 17th inst^t. The weather has been fine, & the place in great beauty, which makes us wish you co^d enjoy y^e pleasure of it, & we that of your company. Your brothers, with Mr. Wray, set out on their northern expedition on y^e 7th inst^t, & according to a letter w^{ch} came on Sunday last, were well at Bishopsthorpe, their head quarters. You must not take it ill that they have not writ to you of late, for this march, and the preparations for it, have for some time taken up all their thoughts & hours. You must not think that they can camp and decamp as quickly as armies. That is only to be learnt in armies. They always remember you with much affection, & in one of their last letters talk’d of writing to you. I dare say they will make amends by an ample narrative of their great operations.”*

The letters which follow passed between the Chancellor and Lord Orford at this time. Lord Hardwicke’s independence, and refusal to bestow, for mere political purposes, an appointment connected with the administration of justice, deserve high commendation ; and we have seen that on another occasion, when Sir Robert Walpole was in office, he acted in the same spirit. Indeed, in all that concerned his duties as the first magis-

* Hardwicke MSS., Wimpole.

trate of the country, he appears to have demeaned himself with that strict decorum and high sense of honour which so eminently distinguished his career while presiding in his own court.

“ *Houghton, July 28, 1744.**

“ MY LORD,—I once or twice troubled your lordship on behalf of Mr. Ralph Courteville, to be put in the commission of the peace for Middlesex. I have several reasons to wish him well, and have never heard any objection to him, but that he employed his pen and pains in defence of the government when it was most furiously attacked; and if his genius did not appear in the first light, it was not inferior to others who have found their account on the contrary side: at least, I will venture to say he has show'd capacity enough for the post to which I recommend him, and I have never heard any thing of him that can be a reason to refuse this common favour. Excuse me, my lord, giving you this trouble, for I truly think this gentleman deserves thus much regard from me and my friends.”

Lord Chancellor Hardwicke replied in the following terms to Lord Orford:—

“ *Powis House, Aug. 4, 1744.†*

“ MY LORD,—I received the honour of your lordship's letter relating to Mr. Ralph Courteville, and am sorry you have had the trouble of writing upon the subject. I begg your lordship will be assur'd that no person in the world can have more zeal than I have to obey your commands, nor can think themselves more interested when you or your friends are concerned. The objections which you suppose to have been made against this gentleman are such as nobody has presum'd to mention to me in the light of objections; on the contrary, they would be pressing with me to show him all due regard; and if the question was concerning any thing that ought to be made lucrative, I would contribute to it all in my little power: but the true and real reason why I have not yet put him into the commission for Westminster is, the low employment of organist of St. James's Church, which he is now in the actual possession of. This has made some persons of that parish, who are justices of the peace, object against him: they consider him only as their organist; and, whether from a certain *hauteur* or other con-

* Hardwicke MSS., Wimpole. Coxe's Walpole. Quart. Edit.

† Ibid.

siderations, think it improper that he should be brought upon the bench with them. Neither can I find that any person in that situation has ever been put into the commission. These are the grounds why I have hitherto delayed complying with your request in this little affair; and I beg your lordship will be assured that when I do so, I do a thing much more disagreeable to myself than it can be to you. I hope your lordship enjoys perfect health and satisfaction in the place where you are, the work of your own hands. I do most heartily wish you a long enjoyment of it."

From a letter written to the Lord Chancellor by Mr. Stone, at six o'clock in the morning of the 22nd of September, it appears that some alarm was on one occasion caused to the government of preparations for an invasion being at this time in active operation; but, as we hear no further of the matter, it may be supposed that the affair was of less importance than was at first imagined.

"I have this moment received a messenger from Claremont, with a letter from my Lord Duke of Newcastle, informing me his Grace received late last night an express from Vice-Admiral Davers at Portsmouth, which contains information that there is a French fleet, consisting of twenty sail, now in our Channel. Four or five of them look like large trading vessels."*

In the month of October the Lord Chancellor applied for leave of absence for his son, Captain Yorke, to come over to England.

During the year 1744 an important document was submitted to the consideration of Lord Chancellor Hardwicke, being "Proposals of the Justices of the Peace for Suppressing Street Robberies," which at this time appear to have been very prevalent throughout London and Westminster.

According to the memorial in question, robberies of

* Hardwicke MSS., Wimpole.

foot passengers in the streets were then quite common ; and it stated that—

“ All these disorders proceed in a great degree from the gaming houses, night houses, fairs, wells, and gardens, which have of late grown so numerous in and about this town.”

It also proposed that proper rewards should be offered for apprehending street robbers, and—

“ That these rewards be extended to all highwaymen and robbers within five miles of London.

“ That gaming houses be suppressed, particularly that kept by one who calls herself the Lady Mordington, in or near Covent Garden, where many tradesmen, apprentices, and others have been ruined ; and some of them, probably made desperate by necessity and want, have turned felons and street robbers.

“ That the public wells and gardens, as well as the fairs which have of late been set up about this town, where the inferior sort of people spend their time and money, and contract the habits of vice and idleness, which generally end in greater crimes, be entirely suppressed.

“ That the excessive use of spirituous liquors, and the excessive number of those places which are commonly called gin shops, are another cause of these disorders, and therefore ought to be restrained, being found by long experience to inflame the blood, and prompt those who deal in the said liquor to greater severities in the correction of those under their power, and therefore may probably have the like effect upon the present street robbers, who are known generally to drink freely of these liquors before they venture on these exploits. And this is the only way we can account for these

cruelties which are now exercised on the persons robbed, which before the excessive use of these liquors were unknown in this nation.

“That some effectual method be taken for receiving into the land and sea service, and securing therein, such persons as shall be apprehended by parish officers, against whom no particular crime can be proved, but who are well known to be dangerous, and justly suspected of taking criminal courses for their livelyhood, such persons having been too often refused, tho’ able bodied and fitt for any service abroad; and that they be sent accordingly by the first opportunity to some distant or proper place, where they may be best taken care of, and be of greatest use.”*

It was also suggested to apply to Parliament for an act against those who sold strong liquors without license, or who harboured bad inmates, or walked the streets with cutlasses, &c., and for regulating the nightly watch; and also for compelling housekeepers to contribute towards lighting the streets.

The letter which follows was addressed by Lord Bolingbroke to Lord Hardwicke, and displays a good deal of the style and feelings of the writer. It refers also to some papers of interest, which he had transmitted to the Chancellor for his perusal.

“*Battersea, July the 28th, 1744.*†

“MY LORD,—If I did not live constantly att this place, and visit London as seldom as it becomes one to do who is marked out for having the cloven foot, I should seek more frequently the opportunitys of paying my respects to y^r Lords^p. At this time I suppose you think of going into y^e country, and I should be sorry to

* Hardwicke MSS., Wimpole.

† Ibid.

hear you was gone without having had it in my power to wish you a good journey, & a pleasant vacation. In the meanwhile I send y^r Lords^p the collection I have of the Marshal of Harcourt's letters during his Embassy to Spain. They will set the important affair of that conjuncture in a new light before you, & give you much amusement and much information. What other papers I have that may contribute to either, shall be at y^r Lordship's service as soon as I have got y^m over.

“ I am, my lord, with true respect,
 “ Y^r lords^p's most humble & most obedient serv^t.

“ H. S^t. J. L. BOLINGBROKE.”*

In another letter, dated August 16th, 1744, Lord Bolingbroke says that he called on Lord Hardwicke, “to communicate some advices that are to be depended upon, and that gave reason to think the inward state of the French court may change considerably.”

The second Lord Hardwicke, in a note to this letter, says—

“ N.B. I believe L^d B.'s advices came from the Noailles q^r, and the Marquis Martignon.”

The next is a letter of great importance, and contains intelligence respecting Lord Bolingbroke's own views upon the condition of affairs at the French court at this period, at once curious and interesting.

“ *Battersea, Friday Morning.*†

“ MY LORD,—I sho^d not easily forgive myself, if I had been in any degree the cause of your Lordship's

* Indorsed by Lord Chancellor Hardwicke, “From Lord Bolingbroke, with a manuscript of the Duc d'Harcourt's letters during his Embassy in Spain, abt y^e time of ye Partition Treaty.”

† Hardwicke MSS., Wimpole. Date indorsed, “Augt. 17th, 1744.”

losing one moment of the little recess from business you are likely to have, or one mouthful of country air. I send this letter according to your directions, and doubt not of its falling safely to your l'dship's hands. Tho' I cannot name in it the hands from which my intelligence comes, yet you may be assured that it comes thro' common friends; from those who have been witnesses of all they mention, and who may be depended upon.

“ The circumstance of the King of France's illness are much the same as you have heard, but the following circumstances you may not have heard. It might be with^t any particuar reason, but it might be likewise by some presentiment of illness, that he ordered the Abbot of Fitz James, B'p of Soissons, not to leave him, but to accompany him to Metz. This prelate attended him during his whole sickness, & I observe that it is the mode among all those who dislike the violent measures into which the Queen of Spain has drawn their court, to applaud the *frankness*, the *boldness*, and the *solemnity* with w'ch he spoke to the King about his whole conduct. It is certain the monarch was very devout, that is, very much frightened. He, who has no love for his Queen, ordered that she should be sent for, & she arrived at Metz the 17th. The Dauphin & his sisters were stopped at Chalons, for fear of infection, the fever being of a very malignant kind. He pressed to rec^e the sacrament, & even that of extreme unction. Before he rec^d them, he said that he knew the ladies, who had orders to return to Paris, were still within four leagues of Metz; & added, that for their disobedience to these orders he deprived M^{ade} de la Fournelle of the place of superintendant of the future dauphine's household; and her sister, M^e. de Lauragois, of that of dame d'atour, or mistress of the robes. He continued in great fervour of devotion, and

much deep penitence, repeating that he hoped to recover, for nothing so much as to make amends for the ill examples he had given, and to ease his people, & to govern them better. How he will persist in these new dispositions, I know not, but it is very possible that the cabal of what is called *les petits cabinets*, may be broke by this event, & the best people there hope and believe it will. What use, and whether any, is to be made of the prospect that opens itself, I presume not to judge; but this I will say, that our present condition requires we should neglect nothing which can be effected by vigour or address. We talk much of the former, but we exert little; for proposition of money is no more vigour than every libertine shows, who gives great sums to mercenary wenches that he makes no use of.

“Adieu, my honoured lord. Whenever I hear that you are at London, I will endeavour to pay my respects to you in person; & I may very well have no other call thither, since the world cannot think me worse company than I think the world. I shall be, as long as I live, & in every state of life,

“My Lord,

“Your Lordship’s most obedient,

“And most faithful humble servant,

“H. ST. J. L. BOLINGBROKE.”

“To the Right Honourable

“My Lord Chancellor.”

In the two next letters, the subject of the one preceding is followed up, and additional information communicated and commented upon. There is no copy of the Chancellor’s letter here referred to, among his papers.

“MY LORD,”*—I deferred answering y^r lrd’p’s letter

* Hardwicke MSS., Wimpole. Indorsed, “Rec^d. Augt. 29, 1744.”

for some days, in hopes of receiving further news of the King of France's health, and of the inward state of that court, but I have none, except an assurance of his recovery, which is as slow as his distemper was violent. They seem to be there in great expectations of peace, and I suppose they expect to give it, as they pretend that we might have done a year ago. The taking Demont, almost without a siege—for Charles was obliged to repass the Rhine with a loss, which, they say, might have been greater if Noailles had pushed with more vigour—and the passage of the Prussian artillery, by Dresden, with the probable consequences of this new turn which the war takes, give them hopes of negotiating with advantage. But I doubt that the same considerations make it impossible for us to do so, and yet I do not see how we can carry on the war to any good effect in the present manner, and on the present principles. Y^r lordship asks who are the proper persons thro' whom things might be put in a train towards bringing about a reasonable and solid pacification. That question is made, by events, much more hard to answer than it was some time ago; such persons, however, there are, no doubt. But even the same persons would certainly show less facility in y^e present conjuncture; and with the same inclinations to peace, would think they ought to show them less. I shall trouble y^r lordship no further, but conclude by wishing you all the pleasure and health that air and exercise can give you, and by assuring you that I am, with true respect, my lord, y^r l'd'p's most humble and most obedient se^{nt},

“H. ST. J. L. BOLINGBROKE.”

“*Battersea, Sept. the 4th, 1744.*”

“MY LORD,—It is grown very difficult for me to have

any material intelligence from France. My friends are cautious how, and what they write, and there are persons, I apprehend, on this side, who would choose rather to find fault with me for such a correspondence than to make their advantage of it. The King's recovery is slow, but I fancy he will get back to Versailles by the end of this month, tho' they talk of his journey to Strasbourg, and even to his army before Fribourg. I do not wonder that y^r lordship entertains very melancholy reflexions. The turn of y^e war is irrevocably decided against us. I have seen it insinuated from France that y^e King of Sardinia has made his agreement with Spain, and I know that the Franckfort allies give out the same report. It may not be true, but if I see Coni taken as easily as Demont, which is not quite unlikely, since the defence of it is said to depend on the getting in five battalions more, I shall believe it. I own that I expect great expense, and little effect from y^e north. I doubt that our resource from that quarter looks like the hope King Picrochole entertains in Rabelais, of four hundred & fifty thousand Muscovites to restore his affairs. I heartily wish that Providence may interpose in our favour, for I see no human interposition likely to save us. As to y^e winter campaign, I know not what it will be, but I think I see what it might be, if resolutions proportionable to our national distress, and to the sole causes of it, could be taken. I am, my Lord, with the most sincere respect, your lordship's most obed^t & most humble serv^t,

“H. ST. J. L. BOLINGBROKE.”

The following letter alludes to the manuscript volume already mentioned, which Lord Bolingbroke had lent to Lord Hardwicke, and which the Chancellor had lately returned, with expressions of his satisfaction at its perusal.

“ *Battersea, Octob. the 13th, 1744.**

“ MY LORD,—I am extreamly glad that the manuscript afforded you the entertainment I hoped it would, and when y^r lordship has leisure to be entertained again by anecdotes of such a nature, I shall be able to supply you with y^m. I shall be so y^e more, because there are none that I will scruple communicating to you, even those that concern me personally the most. I own that besides the pleasure I shall have in seeing you, it will be great satisfaction to me to have an opportunity of saying something to you *re summa rerum*, for even that is concerned, if I mistake not, att this moment. Something my personal regard to you will call upon me to say, and something my love for this country, tho’ I can scarce call it my own. I do not pretend to be able to advise, but I may be able to inform. I never go to London, but will do so whenever your lords^p pleases to order me to do so, and if I cannot see you in the morning, I will contrive to lye in town. Be pleased to order any commands you have for me to be left att Mr. C. Chetwynd’s, in Dover-street. Marchmont will send y^m to me instantly. I am, my Lord, with respect, truth, and inviolable friendship, y^r lords^{ps} most obedient and most humble serv^t,

“ H. ST. J. L. BOLINGBROKE.”

A communication, which had been made by the Chancellor to Lord Bolingbroke, appears to have been the occasion of the next letter, in which the writer gives expression to his hatred of the world, and his regard for Lord Hardwicke in very characteristic terms :—

“ *Battersea, October the 18th, 1744.†*

“ MY LORD,—I received last night the honour of y^r lords^{ps} letter, for which I return you many thanks ; and

* Hardwicke MSS., Wimpole.

† Ibid.

will not fail to be at Powis House on Sunday next, att nine in the morning, or a very little after. A long course of very severe usage has made me almost indifferent to it, and att the same time more sensible than ever of good usage. I have always experienced the latter from y^r lords^p, and, in return, I will be as long as I live with respect and truth, and without reserve, my lord, your lordship's most faithful and obedient humble servant,

“ H. ST. J. L. BOLINGBROKE.”

On the 5th of January, 1745, Lord Chancellor Hardwicke had an audience of the King, of which he has left an exact account, or diary in his own handwriting. It will be observed, that he endeavoured to reconcile His Majesty to the recent changes, and to induce him to give to the new ministry his cordial support. The King's indignation, at being compelled to dismiss his favourite minister, and to receive those into his service whom he disliked, is strongly displayed. The spirit and good sense, and respectful firmness of Lord Hardwicke on this occasion cannot fail to be remarked.

“ *January 5th, 1744.**

“ *Chancellor.*—Sir: I have forborne for some time to intrude upon your Majesty, because I know that of late your time has been extremely taken up. But, as the Parliament is to meet again in a few days, I was desirous of an opportunity of waiting upon your Majesty, to know if you had any commands for me; if there is any thing that it might be particularly agreeable to your Majesty to give me your commands upon.

“ *(Pause of above a minute, and the King stood silent.)*

“ *Chancellor.*—Sir: from some appearances which I have observed of late, I have been under very uneasy apprehensions, that I may have incurred you Majesty's displeasure; and though I am not conscious to

* Hardwicke MSS., Wimpole. Copied also into Coxe's Pelham, with a few slight variations.

myself of having deserved it, yet nothing ever did, or ever can give me so great concern and so sensible a mortification in my whole life.

“(Pause of above a minute, and the King quite silent.)”

“*Chancellor.*—I beg your Majesty will have the goodness and condescension for me, to hear me a few words upon the motives of my own conduct; the nature of your present situation, and the manner in which I humbly think it may be improved for your service.

“Whatever representations may have been made to your Majesty, I, and those with whom I have acted, if I know them at all, have had no view in the whole that has passed of late, but your service, and that of the public. I considered with myself, that the principal point of the public service and your Majesty's great object at present, is the carrying on the war; and though your Majesty may have been told that we were against the war, that was a misrepresentation; we were zealously for it, but we were for it upon some practicable plan, and in such a way as we might see that it could be supported. I was always convinced, that as your Majesty was engaged, it was necessary to be carried on 'till an opportunity should arise of making a reasonable peace, for the sake of your Majesty, and for the sake of your allies.

“I saw at the same time that in the condition and disposition, in which your allies are at present, it would require vast sums of money, and perhaps greater annual expenses than this country ever bore in any former war, either King William's or Queen Anne's.

“It would be impossible for any administration to carry this through without taking some methods to reconcile the minds of men to the management of the war, and making it in some degree popular.

“This could not possibly be done without taking the nation to a certain degree, along with you.

“I beg your Majesty would consider the situation you are now in. Your old servants, and the old corps of Whigs, who are connected with them, are ready and zealous to support you.

“The gentlemen who are newly come in, have come in upon that foundation, and have bound themselves by their declaration and engagements, to support, by themselves, and their friends and followers, the measures for carrying on the war; and I think the strongest of those measures has been opened to them.

“The gentlemen who have lately gone out of your service, have, for reasons best known to themselves, declared that they will concur in all measures to support the war, and pretend to build a merit upon it.

“For my part, I never saw or heard of a situation, which, if rightly

improved, afforded a prospect of greater advantage to the Crown than this.

“ In Parliament, there have been generally three parties. The Court party, a determined opposition, and a flying squadron. But I never yet saw a time, in which all these three parties were brought to declare for the support of the government, in the grand essential measure of that government, and of which for some time all other measures will be but parts, or else subordinate to it. There are two points for the support of the war which we need. One is the great proposition* from Russia; and though that can't be brought about without a large new burthen, yet, if it can be turned, in any practicable shape, I see a great disposition to make it effectual. The other is the additional subsidy to the Queen of Hungary, which will be a method of keeping up your Majesty's Hanover troops, for two views combined together; I mean the defence of your German dominions, and the support of the common cause, according to the general reason of the war. For this also they have engaged.

“ *The King*.—As to that, if they don't like it, I am very easy. I don't desire it for my own sake. I can call home my troops for the defence of my own dominions.

“ *Chancellor*.—I don't mention it in the view of a particular point of your Majesty's, but as part of the general system of carrying on the war, and as an instance of *their* readiness to comply with expedients to get over their old prejudices.

“ But, Sir, there still remains something very material behind; how this situation may be best improved, and the advantage of it not be lost?

“ *King*.—I have done all you asked of me. I have put all power into your hands, and I suppose you will make the most of it.

“ *Chancellor*.—This disposition of places is not enough, if your Majesty takes pains to show the world that you disapprove of your own work.

“ *King*.—My work! I was forced; I was threatened.

“ *Chancellor*.—I am sorry to hear your Majesty use those expressions. I know of no force: I know of no threats. No means were used but what have been used in all times, the humble advice of your servants, supported by such reasons as convinced them that the measure was necessary for your service.

“ *King*.—Yes, I was told that I should be opposed.

* For taking thirty thousand Russian troops into the pay of Great Britain. Coxe.

“*Chancellor*.—Never by me, Sir, nor by any of my friends. How others might represent us, I do not pretend to know. But, whatever had been our fate, and though your Majesty had determined on the contrary side to what you did, we would never have gone into an opposition against the necessary measures for carrying on the war, and for the support of your government and family. For myself, I have served your Majesty long in a very laborious situation, and am arrived at a length of service, which makes me very indifferent, as to personal considerations. Taking your money only is not serving you; and nothing can enable me to do that but being put into a possibility and capacity of doing so by your gracious countenance and support.

“But, Sir, to return to what I was mentioning, of making the proper use, and advantage of your present situation.

“*King*.—The changes might have been made by bringing in proper persons; and not those brought in, who had most notoriously distinguished themselves by a constant opposition to my government.

“*Chancellor*.—If changes were to be made in order to gain strength, such persons must be brought in as could bring that strength along with them; otherwise it would have been useless. On that account, it was necessary to take in the leaders, and that with the concurrence of their friends; and, if your Majesty looks round the House of Commons you will find no man of business, or even of weight left, capable of heading or conducting an opposition.

(Pause—*The King silent.*)

“Sir, permit me to say, the advantage of such a situation is a real advantage gained to the Crown. Ministers may carry their point in Parliament, and frequently do so, by small nominal majorities, and in this way they may struggle on long; but by the same way the Crown always loses both its lustre and its strength. But when things are put upon a national foot by a concurrence of the heads of all parties, and yet so as not to discourage your old friends, then a real solid strength is gained to the Crown; and the King has both more power to carry his present measures for the support of Government, and is more at liberty to chuse and act as he pleases. Your ministers, Sir, are only your instruments of government.

“*King*.—(*Smiles.*)—Ministers are the King, in this country.

“*Chancellor*.—If one person is permitted to engross the ear of the Crown, and invest himself with all its power, he will become so in effect; but that is far from being the case now, and I know no one now in your Majesty’s service that aims at it.

“Sir; the world without doors is full of making schemes of an

administration for your Majesty for the future ; but whatever be your intention for the future, I humbly beg that you would not spoil your own business for the present.

“*King.*—I suppose you have taken care of *that*. If you do not, or have not success, the nation will require it at your hands.

“*Chancellor.*—If right measures are not pursued, nor proper care taken, then the nation will have reason to require it ; but success is in no man’s power ; and that success must greatly depend on your Majesty’s showing a proper countenance and support to your servants, and to what you have already done. I humbly beg leave to recommend this to you, for your own sake, and for the sake of carrying those points, which are essential to you and the kingdom. In times of peace sometimes a session of Parliament may be played with, and events waited for ; but in a time of war, and of such a war as this is, the case is quite different ; and the ill success of it will not be the ill success of the ministry, but of the Crown. It may be the loss of the whole.

(*Pause—the King silent.*)

“Sir, there is another advantage that may be made of your present situation, which I think a very material one. The swarms of libels, which have gone about of late years, have greatly hurt the credit, and weakened the strength of the government ; and that weakness has produced an impunity to them. From this source has sprung much of the confusion and disorder which have been so justly complained of. I should think the present situation would afford an opportunity, greatly to suppress and keep under that spirit, and though this is the season of the year in which they used to abound, scarce any thing material of that kind has appeared this winter.

“*King.*—I, myself, have seen twenty.

“*Chancellor.*—What strokes of that kind your Majesty may have seen in the weekly papers, I cannot take upon me to say ; but I have yet seen hardly any libellous pamphlets. In the last winter, before this time, there were volumes of virulent pamphlets published, which did infinite mischief. But whatever has happened hitherto, if this work gains some solidity, and operates in the nation, it will strengthen your Majesty’s hands, and enable your magistrates to punish them effectually. Those who, perhaps, used to patronize and support them, will turn against them, and juries will be found now ready to convict them.

(*Pause—the King silent.*)

“Sir, I ask your Majesty’s pardon for troubling you so long, but I thought it my duty to lay my poor thoughts before you.”

In a letter from the Duke of Newcastle to Mr. Pelham, dated January 19th, 1745, he warmly expresses the friendship between Lord Hardwicke and himself:—

“I am sure you will not think unreasonable what I now propose: that every thing, as far as possible, should be first talked over by you and me, before it is either flung out in the closet, or communicated to any of our brethren; I always except the Chancellor, who, I know, is a third brother: that we shall have no reserve, either public or private, with each other.”*

The following letters which were at this period addressed by Lord Bolingbroke to Lord Hardwicke, will be read with interest. The first of them relates to a volume of Pope’s correspondence, in which were some of Lord Bolingbroke’s own letters. An allusion here to his treatment by the government will also be observed.

“*Battersea, Nov. the 12th, 1744.* †

“MY LORD,—I send you two volumes of the letters you desire to see, of which a few copys were printed by Pope’s direction. The 2nd may give y^r lords^p possibly some satisfaction. The first, I fear, is fitter for a young man who begins his studys, than for y^r perusal. With them y^r l^p will find some addressed to Pope, on metaphysical, or rather anti-metaphysical matters. The letter writ to Wyndham I found, and I sent it, and with it a few others; one was writ to L^d Stair, on what he communicated to me from L^d Sunderland. His l^d took so little care of it, notwithstanding the caution given him in it, that falling behind his scrutore, it was found by M^e de Mariares, in whose house he had lived, and printed as you see it, for reasons obvious enough. There is likewise a draught of that which I sent to the late King, in 1725, soon after he had brought me into this country.

* Coxe’s Pelham.

† Hardwicke MSS., Wimpole.

What I pressed for then, and do not even desire now, your l^{ds} may think, perhaps, was not ill supported. Att least you will see how mean & treacherous a part the minister in power acted under the mask of good-will. I trouble you no further. I only ask y^r indulgence, to which I have this claim, that I obey y^r commands, and that I show myself naked, as it were, to you. I wish to hear that a spirit of conciliation has operated, such as our present distress requires. I am, my lord, with true respect, y^r l^{ps} most obedient & most humble serv^t,

“ H. ST. J. L. B.”

“ It may be proper to say by way of postscript, that tho’ some things in the letters to Pope may appear heterodox, they will be more so relatively to Theology, which I do not much esteem, than to evangelical religion, which I respect as I ought. Many inaccuracies must be excused, since they were never corrected, nor read by me, since the first heat in w^h they were writ.

“ I have put up another volume of letters, w^h I just now recollect y^r l^p had a mind to see.”

The next letter, alludes to some information on the state of affairs abroad, which Lord Bolingbroke had received, and which he communicated to the Chancellor.

“ MY LORD,*—I went to London the day before yesterday, to take leave of my Lord Chesterfield; and should have endeavoured to pay my respects to y^r lordship, if I had not been obliged to return home last night. I hope you received the treaty of eventual partition of 1668, which I sent you according to my promise. There are some things in our last letters from France, which may

* Hardwicke MSS., Wimpole. The date indorsed on this letter by Lord Chancellor Hardwicke is, “ Jan^y. 10th, 1744.”

deserve y^r ldp's notice. The desire of peace, as well as the want of it, begun to manifest y^mselves strongly. A man who knows what he says, writes to me, that y^e new minister, who is an honest man, & has the best intentions, w^d be glad to signalize the beginning of his administration of foreign affairs by the great work of a peace. The same person writes to my wife, 'I saw y^r nephew,' he means the Duke of Noailles, 'yesterday. He is much taken up about you. You will receive incessantly a letter from him. He will communicate his ideas to you, as he did to me. I told him I could not be of use to him in what he desired, altho' I desired to see what he wished accomplished. He talked very reasonably. His personal interest might be one motive, but I could perceive that what he threw out had been concerted and approved.' Y^r ldp will consider whether these particulars deserve any reflexion. I know that you are got into the hurry of business again, and I fear interrupting you, and mispending any of yo^r time. But whenever you have a moment to give to an insignificant person, give it me, my lord. I am ever, with true respect, y^r ldp's most humble & most obedient serv^t,

“ H. ST. J. L. BOLINGBROKE.”

“ I think they know in France that Belleisle is to be brought hither by sea.”

In the letter which follows, Lord Bolingbroke proposes a time for having an interview with Lord Hardwicke, for the purpose of conversing with him on the subject of political affairs.

“ *Battersea, Fryday, past Twelve.**

“ MY LORD,—I will be on Sunday morning, between

* Hardwicke MSS., Wimpole. Indorsed by Lord Chancellor Hardwicke, “Friday, Jan^y. 11th, 1744.”

ten & eleven in town, and either wait on you that morning, or that evening, just as you shall order me by a note left att Mr. Chetwynd's, in Dover-street. Besides the pleasure of seeing y^r l^{rds}^{hp}, I shall have that of conversing with you in the strongest crisis I ever saw, & on the event of which, if I mistake not, the most important consequences to this nation, and to Europe, depend. I am, my lord, with a sincere and respectful attachment, your lord^{ps} most obedient, and most humble servant, .

“ H. ST. J. L. BOLINGBROKE.”

An allusion to this visit is contained in the next letter, as also to the subject of their conversation; and some mysterious hints are thrown out, respecting which the note appended affords the only explanation that can be offered.

“ *Monday Evening.** ”

“ MY LORD,—Tho’ I would not give y^r l^{rds}^p the trouble of two visits in one of my journeys to London, and am returned home, I cannot neglect writing a few lines to you, and I trust the conveyance of my letter, for greater security, to Mr. Chetwynd. I beg y^r l^{rds}^p to lay even more weight than you did on what I said to you concerning the intrigues that are carryed on among both partys. They have effect, and more than I apprehended, especially among y^r allies. That great distribution of employments is working the most unworthy part possible in my sence, with regard to public good & private honour; and he who is not capable of doing any good out of the sphere of faction, does much hurt in it. I fear a schism even this session, which it is in y^r power to prevent easily, & cheaply enough, if it be

* Hardwicke MSS., Wimpole. Indorsement in the handwriting of Lord Chancellor Hardwicke, “ Monday, Jan^y. 14th, 1744. From Lord Bolingbr^r.”

prevented in time; and give me leave to say, that the affair of Justices of Peace, made palatable by proper representation to your old corps, is an expedient that would be very effectual. Gain time, for God's sake. A schism will happen, but if it is kept off for some time, I shall lik it, rather than fear it. As you have to do with some ill men, and some weak ones, you have to do with others y^t have sence & virtue, & courage. They will serve you to y^e utmost. Serve y^rselves, and y^m, and y^r country. My freedom will deserve the more excuse, because among the most moderate you will find no man who has so small pretensions as myself. Forgive this scroll writ in haste, but which I could not, with peace of mind, neglect to write. I am ever faithfully devoted to you, and to y^r cause."

"To the Right Hon. the
Lord Chancellor."

Note by the second Lord Hardwicke:—

"I recollect that my father showed me this letter, & I believe the person obscurely pointed out in it was L^d Cobham, the Gen^l."

The three following letters from Lord Bolingbroke to Lord Hardwicke relate entirely to the foreign advices which the writer had received, and which he communicated to the Chancellor, with his own sentiments on the matters they contained.

*"Wensday, Jan. the 16th, 1744-5.**

"MY LORD,—In a letter from y^e same person that writ what I communicated to you lately, and that is of the 14th inst., it is said that the letter which he mentioned will not be sent, that his representations against

* Hardwicke MSS., Wimpole.

the method had had their effect, and that Noailles had changed his opinion in y^t respect, but y^t we should hear from him another way ; at the same time, that which I inclose came to our hands. Whether this be the communication we were to have another way, I know not. It may be so, but it may be too from another quarter. Y^e man who writes is Champeauze, the President of France at Geneva, but now actually at Paris. He and his family have an attachment to me of more than twenty years' standing, and he has been long a friend to d'Argenton the elder, by whom he will be probably employed in business of more consequence than that which he has to do at Geneva ; in short, the letter is writ by order of d'Argenton most certainly, perhaps in concert with Noailles, thro' Matignon, with whom the writer is likewise intimate. Your lords^p will read and consider it, & let me know y^r opinion, and that of y^r brethren, when I go to town, as I intend to do on Saturday. You know that Bootsclau is set out for Holland, but you do not know perhaps that he has been discreet enough to own that he goes to counter-work with Chesterfield. He said, at least, that he did not imagine how it could be thought this lord should be able to do in y^t country more than he, and added other expressions still more strongly pointed the same way. I know his connexions here, & suspected his mission, but did not expect such an avowal of it. Adieu, my honoured lord. I am ever most sincerely and respectfully devoted to your lordship.

“ I know you have received the note I scribbled to you the other night, and hope you will think y^e matter of some moment.”

“ *Wensday, Jan 30th, 1744-5.** ”

“ MY LORD,—I send you enclosed a letter which came

* Hardwicke MSS., Wimpole.

to hand yesterday, & was sent under y^e cover of Fitzgerald, a merchant in the city, whom I do not know, but who is the nephew of one of the same name that was, as I have heard, the channel of a correspondence my Lord Orford had thro' France with Spain. The letter contains nothing worthy notice, and yet I think it suggests what is worthy y^r notice. Matignon says to him, that he would be welcome at this place ; I suppose to encourage him to take the journey, for nothing has been writ from hence relative to it. I take this to be the expedient Martignon proposed to Noailles, when he declined himself the communication of y^e Marshal's ideas to us. Silhowth is a sensible man, & much trusted by Noailles, on the recommendation of Matignon. He was made secretary to the D. of Orleans, after having served as such three or four [years] to Noailles, on the same recommendation to y^e eldest d'Argenton, who was then Chancellor to y^e Prince. On the whole matter, his mission is surely from Noailles, of whose ideas y^r lords^p may remember it was said by me some time ago, that they were very reasonable and *concertées et approuvées*. Noailles has not the credit he had with the King. Belleisle & the faction that is for Spain & y^e war, as well as Schenettan, having represented strongly against him ; but to use a French expression, *il remontera sur sa Bête*. He has talents for it, and his relations make half y^e Court. The ministers will consider if it be worth while to let Silhouette come over under pretence of settling his affairs here, for he was concerned formerly here as agent for the French company in the tobacco trade. We shall certainly know by him the present state of y^e cabals in that Court, and be able to make the better use of that knowledge by the absence of Belleisle, which I hope you will prolong as long as y^e war lasts, notwithstanding y^e trifling and im-

pertinent demand of the French Court. If your lordship shall have any orders for me on this or any other subject, I will be in town any day or hour you please. Adieu, my honoured lord.

“For God’s sake, my lord, let us not take it into our head to make an emperor. Let us be content to follow y^e disposition of Germany, in concert with Holland.”

“Battersea, Feb. the 9th, 1744-5.”*

“MY LORD,—I have neither writ, nor directed anything to be writ into France, as you may well believe, since I had the honour of seeing your lords^p. But it may be proper I should tell you, at the risque of being thought perhaps too busy, that I have had a letter from thence, which appears solicitous to know whether that from Silhouette has been received, and says expressly that it was writ as an expedient, in lieu of that which Noailles intended to write himself. The cabals att that Court seem to stand as they did, without any very decided superiority, tho’ the influence of Spain be strong, & will probably continue so, even after a Peace, if a Peace be made. They seem much embarrassed, and wait to see what the dispositions of Germany will produce. Our conduct in that scene requires no small delicacy of management, but surely it will be successful if our concert with the Dutch be intimate, if the two Courts of Vienna and Dresden unite in a common measure, and if the Russians continue as well inclined as they were. This last article is of the utmost importance, whether the Saxon, or the great Duke, be designed Emperor; on account of troubles that may arise in Poland in one case, and of a war with Prussia in the other. On recollection, it is certain that y^e current opinion of the Ger-

* Hardwicke MSS., Wimpole.

man lawyers attached the vicariat to the title of Comes Palatinus, and not to y^e rank of Elector. I am ever, my lord, most faithfully, and with the truest, devoted to you."

The next letter is from Lord Chancellor Hardwicke to Lord Bolingbroke.

*"Powis House, Feb. 9th, 1744.**

"MY LORD,—I owe your lordship more thanks than I can express for the obliging trouble you give yourself for my information, as well as for the public service. I am very glad you have not yet writ any thing into France, considering the result of some conferences I have had this week upon the affair of Silhouette. The opinion which seems at present to prevail is—that there would be danger in giving him leave to come over hither.† If he comes without communicating it to the Dutch, it is thought it may give great jealousies & alarms to them & others of our allies. If the supposed intent of his coming be communicated to y^e Pensionary, the same objection will still remain as to the rest of the allies, & besides it is fear'd that the opinion of England's having entertained a negotiation may tend to slacken the vigour of Holland, & incline them to spare y^e expense of their preparation at a time when they seem more disposed than ever to exert themselves. It was therefore wished that some other method could be found out of conveying the thoughts or insinuations of the Duke de Noailles without the *éclât* of a person coming over; for we are desirous that any thing of this nature should proceed from that quarter rather than any other.

* Hardwicke MSS., Wimpole.

† The following words are here struck out in the draft of this letter. "He is supposed to be a person of great intrigue, and [an erasure] of the Jacobites here."

“It is impossible for me at present to write with more precision upon this subject, tho’ I can with the utmost certainty assure you that I am always, with the truest respect, my lord,

“Your lordship’s most obedient &

“Most humble serv^t,

“HARDWICKE.”

The letter which follows is from Lord Bolingbroke to the Chancellor, and in which the subject of the preceding correspondence is still further carried on:—

“*Battersea, Feb. the 10th, 1744-5.**

“MY LORD,—The moment is critical indeed, and every measure that may slacken preparations for a more vigorous prosecution of the war is to be carefully avoided. It may be best not even to hear an enemy till one is in a condition of speaking in strong terms in answer to him. I hope you will put y^r selves soon into y^t condition. In the meantime I thought it became me to let you know these vague overtures, that you might judge whether they deserve any regard or not. If y^r L^d^p is pleased to believe, and to make others believe, that I have had no other meaning, you will do justice to a man who has been concerned in too much publick business to desire to be concerned in any more, who knows the world enough neither to value it nor fear it, and who will be, as long as he is in it, my lord, respectfully and faithfully,

“Y^r L^d^p^s most obedient and most humble serv^t,

“H. ST. J. L. BOLINGBROKE.”

In the next letter Lord Bolingbroke alludes to his custom of transmitting to Lord Hardwicke all the intelligence that he received from France on a certain subject,

* Hardwicke MSS., Wimpole.

and which for some time he had been in the habit of doing.

“ *Battersea, Tuesday Night.**

“ MY LORD,—This note means little else than to keep up the custom of acquainting y^r L^p with every thing I hear from France that relates to a certain subject. In a letter of the 18th it is said, *Vome Reven m’a demandé ce matin des nouvelles de votre santé, dont il ne paroît fort occupé. Il travaille beaucoup pour l’arrangement de son repos.* You easily decypher that expression. *Mais il ne me paroît pas content des gens qui doivent le seconder dan ses vues, et qui prétendent que toutes ses peines sont inutiles, parceque le vieux levain subsiste, et que les absens conservent plus d’influence que les presens.* Is not this the case, my lord, in some sort, in other countrys besides France?

“ I was so much out of order on Sunday that I came home, and could not see all the persons I intended to see. But I am glad that my little efforts were not wanted. Things went off yesterday better than was expected, and Mr. Pelham’s behaviour had an extreame good effect. The other side are composed of trumpeters and drummers principally. Let them trumpet and drum on in publick, and whisper elsewhere; if you do not desert y^r selves they cannot hurt you. Let me suggest to you an apprehension, that it is not quite impossible one man may tell another, and y^e other may let Belleisle know of the overture from Noailles. Adieu, my honoured lord.”

At the foot of the letter which follows is a note, which, however, merely bears confirmatory testimony to

* Hardwicke MSS., Wimpole. Indorsed, “ Feb. 20th, 1744. From Lord Bolingbr.”

the mysterious nature of this and of most of the preceding epistles :—

“ *Battersea, March the 8th, 1744-5.** ”

“ MY LORD,—I sent y^r lordship some time ago a note, to communicate to you a passage that seemed to show the prevalency of the Belleisle or war faction att the French Court. I send you now a letter from Noailles, which came yesterday by the penny post. Who sent it from London, or by what conveyance it came thither, I know not, but you will see by y^e date it has been long on y^e way. The greatest part of it is of private concern and matter of compliment. But the latter part is worth y^r consideration, and points out in terms strong enough the different partys. I beg it may not go out of y^r l^d^s hands, for; to speak plainly, I apprehend the discovery of any thing of this kind, in y^e present moment, which I hope you will take care shall not last long, from a quarter from whence it should be least expected, as I hinted to you in my last,” &c.

The second Lord Hardwicke observes, in a note on this letter, “ There are many mysterious hints in these letters, w^{ch} can’t now be made out ; my father not having shown me above one of them, I had no opportunity to ask qu^s. H.”

The letter which follows appears to refer to one from the Chancellor to Lord Bolingbroke respecting that of M. Noailles :—

“ *Monday morning.*† ”

“ MY LORD,—I can have no objection, y^r l^p may be sure, to the communication of y^e extract you have taken of y^e letter I sent you to the two persons you name. The letter itself might have been shewn y^m if

* Hardwicke MSS., Wimpole.

† Ibid. No date indorsed.

you had thought fit. You see by it att least the different sentiments of the two partys at this Court more authentically. What use, or whether any, is to be made of it I submit. The circumstances of y^e present moment y^r l^p thinks cannot last long. Give me leave to add that they need not. The remedy you have try'd has not succeeded. Another joyned to it would; and you have, or may have, it in y^r power, to administer that, in such a degree of strength as may be effectual, without being too violent. But, my lord, this is the season for it. Three weeks hence it may be no longer in y^r power, and the ill consequences may follow before the season returns. I shall be att all times ready to receive your orders, for no man can be more sincerely, or with truer respect than I am, my lord,

“Y^r l^p's most obedient & most humble serv^t,

“H. ST. J. L. B.”

The next letter from Lord Bolingbroke to Lord Chancellor Hardwicke, though merely one of compliment, serves to exhibit very fully the mind and character of its gifted writer:—

“*Battersea, May the 30th, 1745.**”

“MY LORD,—I am far from thinking that the amusements of my leisure are worthy to employ any part of yours, and I ascribe to y^r l^d's politeness, as I ought to do, the civil things you are pleased to say. I wish you fine weather during y^e recess, which is no inconsiderable wish, if S^r W. Temple was in the right when he found fault with the ancient philosophers for not placing it among those things y^t constitute y^e *summum bonum*. But they lived in fine climates, and y^r l^d lives in one that is foul, in more senses than one. Bricklayers and

* Hardwicke MSS., Wimpole.

carpenters have sheltered me from the inclemencys of the seasons in this old house, and I will shelter myself from other inclemencys by a sedentary, inactive life in it. I am ever, with great respect and truth, my lord,

“Y^r lords^{ps} most humble and most obedient servant,

“H. ST. J. L. BOLINGBROKE.”

About this time also we find a letter from Mr. Speaker Onslow to Lord Chancellor Hardwicke, thanking him in warm terms for his patronage of a friend, and which concludes in the following words:—

“Indeed, my lord, you have been so good to me in many instances of this sort, that I cannot help expressing on this occasion the sense I have, and shall always retain, of the candid and generous treatment you have ever been pleased to give to the applications I have troubled your lordship with. I think myself under the strongest obligations to your lordship for it.”*

The letter from which the following extracts are taken was written by Lady Hardwicke to her son, Capt. Yorke, on the 24th of April, 1745. It gives some account both of the domestic proceedings of the family, and also of the progress of public affairs at this period.

“I have not been able till this moment to thank you for your last, but really I have been in one continual hurry ever since I received it, in equipping your brothers for y^e play, w^{ch} was acted with great applause the end of last week, when we prevailed on my lord to make one of the party, who was so much pleased as to express his concern for not having been there at other plays.”†

The play here alluded to was that of Shakspeare’s

* Hardwicke MSS., Wimpole.

† Ibid.

Measure for Measure, which was acted during Easter week at Mr. Newcombe's School at Hackney, where most of the young Yorkes received their early education.

Lady Hardwicke's letter proceeds—

“The Parliament separates next week, & then the King leaves us. God send him a prosperous journey & return; but such folk as I wish he stayed here, since the greatest are not exempt from accidents more than those of less consequence.”

Many of His Majesty's good and loyal subjects at this time no doubt thought and wished as this sensible lady did.

Parliament was prorogued on the 2nd of May, 1745. The session, which was now closed, appears to have been principally remarkable for the little opposition offered to ministers in either house. In the Lords, the Peers seem to have been almost unanimous, so that no debates of importance here are found to be recorded. Lord Hardwicke's name does not once occur in their proceedings, during the whole of this session.

The King's behaviour towards his ministers continued to be rough and discourteous in the extreme, and he often broke out into personal invective against some members of the government. In conjunction with the Lord Chancellor, they made a strong remonstrance to him on the subject of his conduct, to which however he made no reply. Soon after this, he left this country for Hanover, when Lord Chancellor Hardwicke was again appointed one of the Lords Justices for carrying on the affairs of the kingdom.

Lord Hardwicke had, during the year 1743, interested himself on behalf of Dr. Birch, and obtained for him the sinecure Rectory of Landewy Welfrey, in the county of

Pembroke; the year after he was preferred to the Rectory of Sidington St. Peters, in the county and diocese of Gloucester. It is, however, said that he never took possession of this living; and it is deemed probable that he quitted it immediately for one more suitable to his inclinations, which induced his almost constant residence in town; for on the 24th of February, 1743-4, he was instituted to the united Rectories of St. Margaret Pattens, and St. Gabriel, Fenchurch Street, to which he was presented by Lord Chancellor Hardwicke, in whose turn the nomination to the living then was.

The only reasonable complaint against Lord Chancellor Hardwicke with respect to his conduct to Dr. Birch, would be, not that he neglected him, but that he really bestowed too much preferment upon him.

In October, 1744, died Lady Hardwicke's entertaining friend, Sarah, Duchess of Marlborough, in the 85th year of her age. Horace Walpole, whose vituperation of any one is not entitled to much consideration, says that the Duchess died "immensely rich, and but little regretted." The ample legacy which she left to Mr. Pitt, by which that very talented and popular statesman was at once raised to a condition of independence, rendered her death an event of importance in a political sense. On making her will, she applied to Dr. Secker, Bishop of Oxford, to be one of her executors, who on this matter consulted his friend Lord Chancellor Hardwicke, and consented to act in this capacity.

On the 18th of March, 1745, died, the Right Hon. Sir Robert Walpole, Earl of Orford, after having for only a short time enjoyed a pension of £4000 granted by the Crown, in consideration of his services to the state. Though he had for so long been in office, had been the leading minister of his time, and had directed

the application of the public treasure, his circumstances were not affluent.

He may be pronounced as certainly the ablest, though he was perhaps not the greatest minister which this country has produced. His sagacity seems to have been astonishing and almost intuitive; but there is nothing of the grandeur or comprehensiveness in his measures which have distinguished those of statesmen who have been less regarded. He was admirably adapted for the times in which he lived, and most dexterous in meeting the emergencies of that eventful period. Although accused of bribery and corruption to a gross extent, he never practised these for his own personal benefit; and even if we allow him to have been guilty of those charges which were never proved against him, it is probable that he was far less culpable than was supposed. The extraordinary necessities of the times, and the still more extraordinary venality of those with whom he had to deal, may be some palliation, though no actual justification of his malpractices here. At all events, notwithstanding his opportunities of enriching himself, he died poor; so that his country alone reaped the advantages, if any, which were derived from his misdeeds.

In the attainment of any particular ends which he was determined to effect, Walpole appears to have been very unscrupulous as to the means by which this was to be done. In order to carry a disputed election, to secure a doubtful vote in the House of Commons, and the general promotion of his own political influence, on certain occasions, hardly any obstacles were allowed to restrain him. Some of the foregoing narrative and correspondence serve forcibly to illustrate this point in his character. The conversation recorded in Lord

Chancellor Hardwicke's diary between himself and Walpole about his acceptance of the great seal, and the transactions respecting the King and the Prince of Wales, and the correspondence between the Lord Chancellor and Sir Robert Walpole as to filling up the vacant judgeships, may be referred to here.

Walpole's influence and reputation while he was in power almost served to keep things in order, which is the real magic of a great name; and no sooner was he driven from the helm than the storm began to grumble, and ere long burst forth in all its fury. A minister may be judged of alike by the measures which he effected and the events which he controlled; and also by the proceedings which he prevented, and the occurrences which followed when his influence no longer directed the councils of state. The loss of Walpole, at the period he quitted office, cannot be doubted. Whether he could have averted what ensued in the Rebellion of 1745, it is of course impossible to determine. The approach of some catastrophe of this nature he had distinctly foretold, and it was indeed no slight encouragement to the promoters of that tremendous outbreak, that so able and keen a minister no longer existed to thwart their designs. The time, too, chosen for it, was that which immediately followed his death. His detection of Laver's plot, and his successful opposition to all the previous attempts of the Pretender might afford strong ground to contend that had Walpole been prime minister in 1745, the machinations of the rebel party would never have been brought to a head, either from want of opportunity to effect this, or the awe which the authority of Walpole would have inspired.

Perhaps in nothing are the discernment and ability of a great statesman more shown than in the selection of the

persons among whom he dispenses his preferment, especially in the church, the state, and the law. As regards the promotions made by Walpole in the first of these, the venerated names of Butler, Sherlock, Gibson, Pearce, and also Herring and Secker, who were all advanced during the period of Walpole's power, are honourable testimonies to his discernment of talent and merit. In the recommendation however of some of the most eminent and worthy among the candidates for church preferment, Lord Chancellor Hardwicke took a prominent part.

As regards the selection of men to fill high offices of state under Walpole, he was himself so entirely not only the head, but the soul of his own administration, that in his case this point was one of inferior importance.

In the law, Talbot and Yorke were the special objects of his choice. Lord Hardwicke, indeed, was twice promoted by him ; first, to the office of Lord Chief Justice of England, and afterwards to that of Lord High Chancellor, which latter, as we have seen, was strongly pressed, we may almost say thrust upon him by Sir Robert Walpole ; the surest proof of the opinion of the minister as to the importance of his services to the country. Thus, Lord Hardwicke not only filled the two highest law offices in the state, but was selected to fill them successively by one who is allowed to have been so great a statesman. And, in this case, the urgency of the minister to secure the object of his choice, was fully justified in the result, and affords the strongest proof of the penetration and foresight which he possessed.

Walpole is an instance, of which there are some modern examples, of a person who attained the highest eminence as a debater in the House of Commons, commencing his career there with a signal failure. Failure in such a case, where all the qualifications for succeeding were possessed,

and eventually brought into play, can only be attributed to the high standard of excellence which such a person must have formed in his mind, and which he had hoped himself at once to attain, but the inability to effect which, occasioned the trepidation and discomfiture which caused him to break down. An ordinary person, who never aims to soar above the ground, is least of all in danger of such a fall; and hence it is that diffidence may be regarded as a real proof of superior power.

Walpole, if judged of by his parliamentary speeches, might be supposed to possess but very moderate claims to be considered a man of extensive genius. Little in them will be found of originality, of deep thought, or of captivating eloquence. He has nothing of the loftiness of Chatham, nor of the comprehensiveness of Chatham's son; of the philosophy of Burke, much less of his imaginative power. Few, if any, of his harangues are of much value or interest beyond the occasion which called them forth—a common characteristic of the orations of great statesmen, and men of large professional employment, who have not time or inclination to reflect on any matters, beyond the immediate topics before them. Eloquence and philosophy are the fruits of retirement and thought. Midst the hurry and whirl of the fierce encounter, no opportunity is afforded for contemplating the beauties of scenery, or inquiring into the phenomena of nature, which may be exhibited in rich luxuriance all around.

Indeed, the speeches of Lord Hardwicke, as regards both the reflection and the eloquence contained in them, will contrast favourably with those of Walpole; though he was infinitely inferior to the other as a debater, and as regards the vigour and force with which the minister made his appeals. Lord Hardwicke's speeches are more

in the style of set orations, or essays, than portions of a debate, and his notes for them prove how much care beforehand was bestowed in their preparation — what thought, and study, and research each performance cost. Well-trained, off-hand debaters, who speak from the impulse of the moment, and apply themselves merely to the subject at issue, are seldom over-careful about the eloquence or philosophy of their declamations. They speak not so much to please as to convince; though, perhaps, it is not often that they have their reward.

A short but striking sample of Walpole's style as an orator has already been afforded in a previous part of this chapter.*

The admirers of a very eminent statesman and distinguished debater of our own day, have sometimes compared him with Sir Robert Walpole. As regards the power of both in debate, and to some extent in the style of their oratory they may resemble each other. In the sagacity and practical skill of their measures, a similitude may also be more nearly traced. But the marked difference of the times, in all their essential features, must render the comparison further, exceedingly difficult. So far, indeed, is this the case, that the very attempt to copy from such an original as Walpole, in the present day, must imply no inconsiderable amount of ingenuity in adapting the circumstances of the one case to that of the other, insomuch that the copy itself, if such it might be called, becomes almost transferred into an original.

Horace Walpole somewhere says of Sir Robert, that his great forte was knowing his country thoroughly. This was true in the most enlarged sense, comprehending as it did a thorough knowledge of his country as regarded its interests, its feelings, its true position, resources, and

* *Vide ante*, pp. 63, 64.

character; all of which no statesman probably ever better understood, than Sir R. Walpole did, and what was also of no mean importance to him, was considered by the country to understand. But there was another branch of knowledge, of no less consequence to be acquainted with, especially by one in Sir R. Walpole's position, and, above all, in the times during which he lived, of which he also was a complete master,—a knowledge of human nature, real and practical, which enabled him to encounter so vast a variety of character, and with such extraordinary success, from the capricious and wayward sovereign of that day,—whom he controlled, to the different members of the senate,—whom he cajoled. This knowledge empowered him to deal with them all with such consummate skill, and to render them each subservient to his own purposes.

Lord Hardwicke, for many years after Sir Robert Walpole's death, used to be fond of quoting in his letters, some of the trite sayings of this able statesman. In one of them, he refers to a sporting opinion which the minister used to hold. "My pretty granddaughters can walk so well, that I suppose they will, in a little while, become Foothunters, which Sir Robert used to say, was the perfection of all skill in the art of hunting."* In another of his letters, the Chancellor adverts to an adage of the ex-premier's, which was as follows: "Give me a positive, I can give you, as Sir Robert Walpole used to say, a negative at any time." And, again; Lord Hardwicke tells a correspondent on one occasion, when writing to him about a favour that had been asked, that Sir Robert Walpole always used to say that, if you granted a man nine favours, and denied him the tenth, he would be as bitter against you as though you had refused them all.†

* Hardwicke MSS., Wimpole.

† Ibid.

Walpole spent his latter days in comparative retirement at Houghton, satisfied, we may suppose, with the reputation which he had so well earned, and disgusted with the neglect of a court he had so well served. The following letter from him to Mr. Charles Yorke, is so fully, in every way, characteristic of the writer, and displays so extensively the feelings of his heart at that period, that it is of the highest value, presenting almost a representation of the fallen minister among his groves and pictures, musing on the vanities and frivolities of the past, and the mutability and instability of human grandeur.

*“Houghton, 24th June, 1743.**

“DEAR CHARLES,—I have now wrote to Captain Jackson, to give L^d Tyrawly a ticket as you desired, & am very glad to oblige him with it.

“This place affords no news, no subject of amusement & entertainment to fine men. Persons of wit & pleasure about town understand not the language, nor taste the charms of the inanimate world. My flatterers here are all mutes. The oaks, the beeches and chesnuts seem to contend which shall best please the lord of the manor. They cannot deceive, they cannot lie. I, in return, with sincerity admire them, & have as many beauties about me as take up my hours of dangling, & no disgrace attends me, because I am sixty-seven years of age. Within doors we come a little nearer to real life, & admire on the almost speaking canvas, all the airs and graces which the proudest of the ladies can boast. With these I am satisfied, as they gratify me with all I wish, & all I want, & expect nothing in return which I cannot give. If these, dear Charles, are any temptations, I heartily wish you to come

* Hardwicke MSS., Wimpole.

& partake of them. Shifting the scene has sometimes its recommendations, & from country fare you may possibly return with a better appetite to the more delicate entertainment of a court life. Since I wrote what is above, we have been surprised with the good news from abroad. Too much cannot be said upon it, for it is truly matter of infinite joy, because of infinite consequence. Dear Charles, yours most affectionately,

“ ORFORD.”

What a picture does this short letter serve to exhibit to the mind's eye! We not only have here pourtrayed a sketch by himself of the veteran statesman, at whose word this mighty empire, nay, half Europe, would at one time have been obedient, now neglected, powerless, and deserted, musing alone among his own solitary shades and retired haunts, and his commands limited to his own domestics; but we have also a vivid description of the feelings of his mind at this period, in his contemplations of the scenes he had passed through; and his silent reflections on the perfidy of those once so ardent in his support, to whose favour towards them they owed their present prosperity, and who were then so forward to flatter him whom they have now all forsaken and forgotten.

But though Walpole, after his fall, did not often appear on the stage of public life, he seems to have ever readily rendered his services to the full when required. Lord Orford's letters already quoted, and Lord Hardwicke's minute account of his interviews with him, afford together a good insight into his character and manner. Throughout his life, he was an ardent sportsman; in which respect he might be directly compared with another modern statesman, and antagonist of the one

with whom he has been already associated. Such, indeed, was his interest in the sports of the field, that it so far overcame his loyalty, as to lead him to open the letters of his keeper before those of his King! In silence, and unattended by flatterers, he left the world, who once in that world had filled so large a space; and to the grave were his remains consigned, without any display of that pomp or pageantry, which his former greatness and power, in the day of his authority, must have ensured. His fame rests on the important services which, in the eventful period of his rule, he rendered to his Sovereign and to his country. His reward was the ingratitude displayed towards him for those great services. His death was the signal for the enemies of that Sovereign and of that country to exert themselves infallibly to prove his loss.

The case which follows, from Lord Hardwicke's note books, is one of interest, as exhibiting, in the skeleton of the Chancellor's judgment, his comprehensive mode of treating the subject, and of considering and weighing all the various points submitted to him, and balancing one against the other the different arguments and objections urged.

The suit was instituted relative to land in Pennsylvania, and the defendant demurred to the bill for want of parties, contending that the Attorney-General ought to have been one, and that the Crown was not represented as it ought to be; and also that certain other persons interested in the cause should have been joined in the suit.

“ Mich’mas Term, in the 17th year of King Geo. 2^d 1743.

“ *October 25th.*

“ John Penn, Tho. Penn, & Richard Penn, prop^{rs} of Pen’sylvania, with its Terr^s plts.

“ Charles Lord Baltimore, def^t.

“ *Mr. Att^y gen^l. p. quer.* End of Bill to have a specific p’f’^m. of articles, 10 May, 1732, for ascertaining y^e boundaries below y^e provinces of Pensylv. & Maryl. including y^e 3 lower counties, called Newcastle, Kent, & Sussex, & to have directions for ascert^g these boundaries, & to have satisfactⁿ for y^e great expence plts. have been put to in endeav^g to have com^{ns} executed in America, for carry^g y^e articles into exerc. w^{ch} have been defeated by y^e def^t.

“ *Mr. Browne, pr. def.* Objects for want of p’ties, viz. :—

“ 1. His Majesty’s Att.-Gen. in resp^t of y^e Crown’s int.

“ 2. Pen y^e heir of Springet, Pen & 3 o^r p’sons, each of whom are entitled to 10,000 acres of land, & some of whom have indorsed the articles.”

It was also contended that “ y^e Crown is materially concerned as to y^e point of govern^t.”

“ Mr. Penn’s grant was 4 *Mar. 33, Car. 2.*

“ To hold of y^e Castle of Windsor in free & common socage. Grant to him & his heirs. To make laws for good government of y^e province, & to raise money by & with y^e advice & assent of y^e assemblies of y^e said county or their delegates.

‘ To appoint judges & justices, magistrates & officers, and to pardon offences.

“ 20 *June, 1732.* Grant to Cecil L^d Bal^t.

“Tenend. de nobis et de Castro de Windsor, in libero & c’ni Socagio pr. fidelitate tantum.

“Powers of governm^t to make laws & raise money in consilio, &c.”

The other arguments and material points in the case are referred to in Lord Hardwicke’s judgment, the skeleton of which is as follows. This renders it unnecessary to set them forth here. There are also some questions of constitutional and international law adverted to in it, which are deserving of attention.

“*Obj^{ns}* for want of p’ties sometimes thought favourable. Not so here.

“Two objections :—

“1. Want of Mr. Att. Gen^l.

“2. Y^e grandchildren of Mr. Penn, who are devisees of y^e 40,000 acres.

“Merits improper, but must take into considⁿ y^e nature of y^e case, & shape in w^{ch} the cause comes bef^e y^e court.

“As to y^e obj^{ns} :—

“1. Mr Att. Gen^l insisted that—

“1. Right or est. in 3 lower counties in y^e Crown.

“2. Asserts y^e powers of governm^t, jurisd^{ns}, courts, assemblies, subjection of y^e subjects. Subsidies & grants of money.

“As to 1st :—

“1. Not material as to quest. of right.

“2. Strongest part of it on the trust.

“As to y^e 2nd :—

“1. A great difficulty.

Said proprietor may assign to a subject with^t licence.

“2. This not so, to convey to a diff^t province.

Subject it to diff^t gov^t, diff^t laws, diff^t assemblies.

“ 3 *Obj.* Can't make a decree agst y^e Crown.

“ *Ans.* Hardly ever can.

Att. Gen^l to controvert y^e right of y^e p'ties ;
support y^e right of y^e Crown.

“ *Obj.* Y^t y^e order of court reserves y^e right of y^e Crown.

“ *Ans.* The reservation only in case no bill sh^d be brought.

“ *Obj.* That this is not want of p'ties, but an obj. to y^e merits.

“ *Ans.* It often happens y^t such an objection trenches in some degree both ways.

Perhaps the relief w^{ch} this court can give may come out differently, as y^e Att. Gen^l may be ord^d to answer or defend.

If it wo^d be suff^t for y^e c^t to give an opinion, might not be necessary.

“ Must make a decree.

“ 2^d *Obj.* By y^e indorsement they are p'ties.

“ Allowed both y^e objections for want of parties, & ordered y^e cause to stand over, with liberty to y^e plts. to add parties, & plts. to pay y^e def^t y^e costs of y^e day.”

The following epitome of Lord Chancellor Hardwicke's decision in a lunacy case which was brought before him, entitled *Ex parte Roberts*, is also from his own manuscript note-book. On the 9th of November, 1743, the Attorney-General, on behalf of the lunatic, applied to the Chancellor to quash the inquisition, and to have a new inquisition taken, by reason of misbehaviour in the execution of the Commission. According to the notes of Lord Hardwicke, the following extraordinary proceedings were alleged to have ensued during the inquiry in question, on the subject of it being produced, who complained of being greatly disordered :—

“ People cried out, There is y^e fool !

“ He was brought to y^e balcony by several of y^e jury to be shown to y^e people. The jury seemed, by their behaviour, to encourage y^e mobb.”

It was also declared that a strong bias against him was exhibited by the jury.

On the other hand, Mr. Solicitor-General contended that there was

“ A speciall jury of gentlemen of y^e first figure in the country, who used him with all possible tenderness.

“ The jury carried him to dine with y^m twice.

“ The pet^rs c^eil desired y^t y^e jury w^d let him dine wth them a third time, in order to see him with y^e greater freedom.

“ All y^e jury, 21 in number, concurred in y^e verdict.”

Numerous witnesses denied the misconduct imputed to the jury.

Lord Chancellor Hardwicke’s note of his judgment is as follows :—

“ I declared the compl^t of misbehaviour agst com^{rs} & jury, or any of them, to be groundless & vexatious, & therefore dismissed y^t part of y^e commission with costs. But upon y^e personal inspection & examination of Henry Roberts (the pet^r) in court, it appearing to me that he answ^d with more show of reason & understanding than he did upon his attendance at y^e time of granting the commission, & Dr. Tinney consenting to be bound by y^e event of a trial of a traverse to the inquisition, w^{ch} I thought might save future expense & vexation betw. y^e parties, on a bill to be brought to set aside y^e settlement obtained by him, I ordered y^t y^e pet^r sho^d be at liberty to traverse y^e inquisition *in propria personá*, agreeably to former preced^{ts}, particularly y^e case of one Smither, *coram* King, C., & y^t he sho^d put in such traverse before

y^e first seal after Xtnas, & should appear personally upon such trial."

The memorandum which follows of Lord Chancellor Hardwicke's judgment in a case where a legacy of £12,000 was given by a Jew, "for establishing an assembly for reading and improving the Jewish law," is appended to the case of *Benjamin Mendez da Costa and another, plaintiffs, and Solomon Par and others, defendants*, the arguments on which are also recorded in the Chancellor's note-book.

"I was of opinion that this appeared to be a charitable bequest or fund for promoting and propagating the Jewish religion, & consequently contrary to law, for y^t y^e Christian religion is part of y^e law of y^e land, & involved in the constitution of this kingdom, according to my Lord Hale, in Taylor's case, 1 Ventr., & my Lord Raymond, in Wolston's case; & y^t it differed widely from y^e cases of charitable benefactions to the meeting-houses or congregations of Protestant Dissenters, which are tolerated & regulated by y^e Toleration Act. Therefore, I refused to decree for this charity; but a doubt arising w^r it would fall into y^e residue of y^e estate, or ought to be applied to some char. use y^e King sho^d app^t *cy pres*, or devolve upon the Crown as being given to a superstitious use; & y^e c'eil not being prepared to speak to y^t point, I reserved y^e consideration of it, & ordered the money to be placed out on S. S. Annuities in y^e meantime."

The judgment which follows is that which was delivered by Lord Chancellor Hardwicke in the very celebrated case of *Omychund v. Barker*, decided in Michaelmas Term, 1744. On this occasion the Lord Chief Justice of the King's Bench, the Lord Chief Justice of the Common Pleas, and the Lord Chief Baron, as

well as the Lord Chancellor, delivered their opinion *seriatim*, all of them agreeing that the depositions of witnesses of the Gentou religion, sworn according to their ceremonies, ought, upon the special circumstances of this case, to be read as evidence in the cause.

The Chancellor, in his judgment, states so fully and clearly his views and principles on the subject, and embraces so completely all the different arguments and points which had been urged in the case, that I may at once give the selections from it which follow, without further preface or explanation :—

“ *The Lord Chancellor.*—As this is a case not only of great expense, but of great consequence, it will be expected that I should not give an opinion without assigning my reasons for it at the same time.

“ My intention was to be certified whether these people believed the being of a God, and his providence. The 5th volume of Churchill’s *Voyages*, 301, particularly describes this religion and their precepts of morality; the latter precept carries almost the sense of the 9th commandment. This objection being removed, the next question will be whether the depositions ought to be read; which depends upon two things.

“ First. Whether it is a proper obligatory oath?

“ Secondly. Whether on the special circumstances in this case, such evidence can be admitted according to the law of England?

“ The first author I shall mention is Bishop Saunderson *De Jurisjuramenti Obligatione*. ‘*Jurisjuramentum*,’ saith he, ‘*est affirmatio religiosa*.’ All that is necessary to an oath is an appeal to the supreme Being, as thinking him the rewarder of truth and avenger of falsehood; vide the same author, p. 5 & 18. This is not contradicted by any writer that I know of but Lord Coke, who has taken upon him to insert the word Christian, and is the only writer that has grafted this word into an oath. As to other writers they are all concurring; vide Puffendorf, lib. 4, ch. 2, sec. 4. Dr. Tillotson, 1st volume of his sermons upon the lawfulness of oaths, p. 189, where the very text speaks plainly of an oath among all nations and men, ‘An oath for confirmation is to them an end of all strife,’ Hebr. the 6th, v. 16. ‘The necessity of religion to the support of human society in nothing appears more evidently than in this, that the obligation of an oath, which is so neces-

sary for the maintenance of peace and justice among men, depends wholly upon the sense and belief of a Deity.’

“The next thing I shall take notice of is the form of the oath.

“It is laid down by all writers that the outward act is not essential to the oath; Saunderson is of that opinion, and so is Tillotson, in the same sermon, p. 144, ‘As for the ceremonies in use amongst us in taking of oaths, it is no just exception against them that they are not found in Scripture, for this was always matter of liberty, and several nations have used several rites and ceremonies in their oaths.’

“All that is necessary appears in the present case; an external act was done to make it a corporal act.

“Secondly. Whether, upon special circumstances, such evidence may be admitted according to the law of England?

“The judges and sages of the law have laid it down that there is but one general rule of evidence, the best that the nature of the case will admit. The rule is, that if writings have subscribed witnesses to them, they must be proved by those witnesses. The first ground judges have gone upon in departing from strict rules, is an absolute strict necessity. In the case of writings subscribed by witnesses, if all are dead, the proof of one of their hands is sufficient to establish the deed; where an original is lost, a copy may be admitted; if no copy, then a proof by witnesses who have heard the deed, and yet it is a thing the law abhors to admit the memory of man for evidence.

“Selden, upon the laws of Alphonso, the wise King of Arragon, saith, ‘It is not a positive law for the Moors, but authenticated by him, and transferred into his code of laws, and originally in the nature of what our common law is. Moors have their particular oath, which they ought to make in that manner.’ This form of expression rather shows that he refers to some other law that prevailed long before.

“This falls in exactly with what Lord Stair, Puffendorf, &c. say, that it has been the wisdom of all nations to administer such oaths as are agreeable to the notion of the person taking, and does not at all affect the conscience of the person administering, nor does it in any respect adopt such religion; it is not near so much a breaking in upon the rule of law, as admitting a person to be an evidence in his own cause.”*

* Atkyns’s Reports.

CHAPTER VIII.

1745—1746.

PERPLEXITIES OF THE LORDS JUSTICES, AND COMMENCEMENT OF THE REBELLION IN SCOTLAND—LANDING OF PRINCE CHARLES EDWARD—ASSIDUITY OF THE CHANCELLOR AT THE COUNCIL—CORRESPONDENCE WITH THE ARCHBISHOP OF YORK—RETURN OF THE KING—BATTLE OF PRESTON PANS—PROGRESS OF THE REBELLION—ARCHBISHOP HERRING AND THE CHANCELLOR—INVASION OF ENGLAND—ADDRESS OF THE LEGAL PROFESSION TO THE KING—THE REBEL MARCH TO DERBY—PANIC IN LONDON—RETREAT OF THE REBELS—THE CHANCELLOR'S CONFERENCES WITH THE KING—LETTERS OF LORD BOLINGBROKE AND LORD CHESTERFIELD—DISMISSAL OF THE MINISTRY—THEIR REINSTATEMENT—BATTLE OF CULLODEN—TERMINATION OF THE REBELLION—SPECULATIONS ON THE CHANCES OF IT—JUDGEMENT OF LORD CHANCELLOR HARDWICKE EX PARTE BARNSELY.

THE duties of the Lords Justices, appointed by the King to conduct the government of the country during His Majesty's visit to Hanover—and of which body, as mentioned in the last chapter, Lord Chancellor Hardwicke was one—were at this time in the highest degree both onerous and perplexing; and the divisions which existed among the members of this council conducted much to the difficulties of their situation, and must have materially impeded the energy of their exertions. The entire absence of all cordiality and confidence between the King and his ministers, greatly added to their uneasiness. The consciousness of this paralyzed all their efforts, and prevented them taking those bold and vigorous measures which the exigencies of the times

imperatively demanded. Lord Chancellor Hardwicke, who appears on all occasions of emergency since Walpole's fall, to have been the head-piece and directing spirit of the ministry, was at this time in a state of peculiar anxiety; and his own position with regard to his royal master was just now, as we have lately seen from the events recorded in his diary, one of a very trying nature.

A new and exciting period in the life of Lord Hardwicke, and indeed in the history of this country, now opens before us; and one which is novel in its character, though the disasters which at this time occurred were neither unthreatened nor unforetold. Great Britain becomes the scene of invasion, and the theatre of war and bloodshed. That which no foreign force could for ages effect, was at length achieved through the aid and machinations of some of her own people.

The tracing out the causes and origin of seditious combinations, gradually ripening into rebellion, in a state, is at once a very interesting and instructive study. In the present instance, as in most of these cases, strong dissatisfaction with the reigning government was undoubtedly the leading cause of this commotion. The person of the sovereign was unpopular in the nation. His habits were at variance with those of this country. His partialities appeared all to lie with Hanover. His whole recreation was spent there. Troops from thence were brought over here, to the great disgust of his English subjects, and every favour was shown to the former. The interests of this nation, it was generally believed, were on all occasions made subservient by the sovereign to those of his German dominions—a notion not altogether without foundation, as certain documents already quoted will serve to show. And heavy taxes were imposed on the people

of England, which they mainly attributed to the Hanoverian succession.

The rebellion which broke out on the present occasion, afforded, however, a singular instance of a rupture of this nature occurring in a nation when the people were fully satisfied with the form of government under which they lived, and exhibited no desire to effect a change as regarded this, in any branch of the constitution. Indeed, so far were they from wishing an alteration here, that one of the promises made by the invading Prince, for the purpose of inducing people to flock to his standard, was, that no revolution in the existing system of government should take place, in case of his success. The only change thought of was in the person of the sovereign who filled the throne; and, as the people in general knew but little of the individual qualities of either of the rival princes, hence the apathy on the subject of the rebellion which prevailed among the populace.

In Scotland indeed, the union with England was regarded by many as a heavy grievance, and as destroying the independence and nationality of that country, and which the exiled monarch therefore promised to abolish, in case of his obtaining the throne of his ancestors. The body of the Highlanders had, moreover, some time before received a grievous affront from the government, and were ripe for insurrection, and eager for an opportunity of revenging themselves on those who had insulted them; of which the following account is given by the Hardwicke MSS.

At the commencement of the war, a regiment of these people had been formed and transported with the rest of the British troops to Flanders. Before they were embarked a number of them deserted with their arms, urging, which was really the case, that they had

been decoyed into the service by promises and assurances that they should never be sent abroad. They were overtaken by a body of horse, persuaded to submit, brought back to London, pinioned like malefactors, and tried for desertion. Three were shot to death *in terrorem*, and the rest were sent in exile to the plantations. Those who suffered were persons of some consequence in their own country; and their fate was deeply resented by the clans to which they belonged.

As regarded the individual whose pretensions were set up against those of the reigning monarch, his English birth, and the hardship of his fate in having endured so much for the misconduct of his father, excited in his favour a feeling among many; while all who disapproved of the strong measures which had been adopted for his exclusion, and the great proportion of those who were of the Roman Catholic religion, were at once induced to espouse his cause. He had assurances of support from many of rank and importance, both in England and in Scotland, several of whom, however, never declared in his favour, only because they considered that the time was not ripe for doing so.

It was even rumoured and extensively credited among the populace at the time, that some of the members of the government merely required to be more thoroughly satisfied of the chances of success of the rebel party, in order openly to array themselves on their side. One report of this kind, is referred to in a letter from Lady Hardwicke to Mr. Philip Yorke, which appears in another part of this chapter. It has also been stated that the Duke of Newcastle shut himself up for one whole day, on purpose to deliberate fully as to whether he should adhere to King George, or King James. This, however, is wholly at variance, both with his private

letters written at the time, and the great personal sacrifices which he made to support the Hanoverian interest; so that the story was probably only intended as a joke on the vacillating habits of this faithful minister.

All these circumstances tend, however, strongly to show that the enterprize on behalf of the Pretender was not considered so entirely chimerical as some might suppose.

France and Spain had, moreover, promised both money and men, to aid this effort; another proof that there appeared to be some well-grounded hope for its success.

The loss of Walpole, whose death seems to have been the signal to the enemies of the sovereign to put their schemes into active operation, gave encouragement to them to attempt what his foresight had already predicted. The first seeds of discontent against the government, were probably scattered in the calumnies which were cast against this able minister; and the departure of the King from the country, which he neither loved nor was loved by, to his favourite German dominions, together with the absence of our army on the continent, marked this as the most favourable opportunity that could be fixed upon for attempting an enterprize long determined upon, and now fully matured. Accordingly, some time before the end of July, 1745, Prince Charles Edward, the eldest son of the Pretender, landed on the west coast of Scotland, attended only by a few followers, and proceeded at once to raise his standard, when he was joined by several of the disaffected clans. Of this, however, as appears by Lord Hardwicke's correspondence, the lords justices were fully and early apprized.

Lady Hardwicke wrote from London on the 1st of August, 1745, to her son, Mr. P. Yorke, who was then at Wrest. The letters which were at this time addressed by

this excellent and sensible lady, afford the most perfect and vivid idea of the state of feeling in the metropolis during the progress of the Rebellion, and of the rumours and apprehensions then prevalent.

“ My heart is very heavy. Our folks are very busie at this time by fresh allarms of the Pretender being in Scotland,, but I believe the ship Cap^{tn} Bret fought was the ship he was in ; if y^t be so, he is not yet got there, w^{ch} may give a little more time to prepare for him. The French disclaim sending him there, but y^t is nothing : they are to take Ostend, whilst Spain sends troops from thence to y^e other end of y^e kingdom to distract our measures. This is my opinion, God grant I may be in the wrong ; in the meantime our King’s abroad ; and our troops also. . . . In the meanwhile wee are marrying & giving in marriage ; even our patriot Bishops of seventy are consoling themselves with young wives. In short all ranks, all orders of men think of nothing but pleasure or profit, except yo^r good old simple mother, who really grieves for y^e distress of this once happy country. I am much obliged by your kind reception of yo^r sisters, & hope you will excuse me sending Peg, but she was really so dull last year when Betty was gone, I tho^t it bad for her, & if you have company you know she keeps her chamber. . . .

“ There comes out a proclamation this day offering a reward for y^e Pretender, as I am informed. I am sorry you had none of y^e new justices with you at y^e Assizes. I think it a bad sign.”*

To her son Joseph, who had now become Colonel Yorke, and who was in Flanders, Lady Hardwicke also wrote about the same time. The all-engrossing topic

* Hardwicke MSS., Wimpole.

of the day, and the arduous duties which had devolved on Lord Chancellor Hardwicke, are of course the prominent topics dwelt upon.

“Every day gives us new allarmes, & I read in y^e papers of yesterday y^t y^e Pretender is certainly in Scotland, w^{ch} made me wish you all att home. God knows the truth of it, but it has not increased my happiness.

. . . . The only good news I can send you is y^t my Lord is almost quite well, & y^t I have kept up my spirits better than I expected, thro’ all the events of this cold summer. God send us warmer weather & some comfort. I fear this is like to be a troublesome hurrying autumn, w^{ch} will be very bad for my Lord, who really wants some quiet. . . . Earl Stanhope was marry’d last Thursday, & wou’d you think it, the Bishop of Winchester also, the same day, to Miss Newy, the daughter of the Dean of ———. I forget what place. She is said to be about 30, & his lordship 70. The affair was transacted by friends, & ’tis said he never spoke to her till y^e day before y^e wedding. . . . Yor sisters went to Rest yesterday, much to their satisfaction, where your brothers are in great anxiety for their country. The secret of Charley’s book* is out, & every body talks of it as his, much to his commendation, as indeed it deserves. Wee shall not be able to live at Wimple this summer, by reason of the number of workmen still there, who like their situation so well they are determined to keep us out as long as possible.

“The town is full of fears, by the various events these last four months has produced. What the remainder of the summer may turn out, I much fear. W^{ch} way soever I look, I see little comfort. . . . My Lord bid

* The Treatise on Forfeiture, already referred to, which was attributed to Bishop Sherlock, Dr. Warburton, and other eminent writers.

me thank you for your long letter, & designs doing it himself the first opportunity.”*

Lady Hardwicke in another letter to her eldest son Mr. P. Yorke, dated August 8th, 1745,† says:—

“The proclamation I ment^d to you was published on Tuesday, but a certain Earl who was at the ordering of it, went out of town before y^e signing it, w^{ch} is matter of observation; but w^t is very strange is, y^t nobody knows y^t what is become of y^e Pretender, at least they did not this morning, & I have not seen my lord since. People think y^e India Company in France must break; they say there is a million sterling in money in y^e two ships taken by two of our privateers; but y^t will not restore Flanders. My lord is in hopes to leave the town on Monday se’nnight. . . I beg my compliments to Lady Grey, love to the fraternity.”

Lord Chancellor Hardwicke, as the most active, able and leading member of the council of Regency, was now incessantly occupied in concerting measures to check the growing rebellion, of which the most alarming accounts continued daily to be received by the government. In a letter which he wrote to Lord Glenorchy, on the 15th of August, Lord Hardwicke informed him of the intelligence which he had obtained respecting the progress of the rebels in Scotland, and gave him directions how to act. This letter serves amply to show the Chancellor’s own state of feeling on this occasion.

“On Tuesday last, we rece^d advice fro’ y^e Duke of Argyle & my Lord Justice Clerk, that the young Pretender was landed in the north-west parts of y^e Highlands. The place mentioned, is Arisaig in Clonmell’s country, bordering upon the sea, to the north of Moidart. He is

* Hardwicke MSS., Wimpole.

† Ibid.

said to have come in a single ship of 16 or 18 guns, attended by about seventy persons, amongst whom are Lord Tullibardine, and old Lochiel. The circumstances agree pretty exactly with the ship y^t came fro' France in company with y^e Elizabeth, w^h Captain Brett engaged & disabled.

“ When I look round me & consider our whole situation, our all appears to be at stake.

“ The yachts sailed this morning for the King, who has declared he will set out fro' Hanover as soon as he has heard they are arrived on y^e o^r side.”*

The minutes of the proceedings of the Lords Justices are all in the Chancellor's handwriting, and show the assiduity with which he acted.

Notwithstanding, however, the importance of the crisis, at present no danger to England was generally apprehended, nor more, indeed, in Scotland, than a temporary disorder of a serious nature, which would probably end in bloodshed, and the sacrifice of many to public justice ; though occasionally more alarming misgivings as to the possible issue of the event, appear to have been entertained, as it will be observed, that Lord Chancellor Hardwicke, in the letter last quoted from, speaks of “ our all ” being at stake. He, however, ventured to go down to Wimpole at the commencement of the vacation, to recreate himself for a short time after the long fatigue of his chancery labours, and the still severer duties and anxieties which had lately devolved upon him as one of the Lords Justices.

In a letter to Colonel Yorke, written from Wimpole, on the 23rd of August, where the Chancellor says he was staying for “ two or three days at most, whilst the King

* Hardwicke MSS., Wimpole.

is supposed to be on the road," Lord Hardwicke gives the following account of the intelligence on the subject of the progress of the rebellion, of which he was then possessed, with his own sentiments thereon :—

"That the young Pretender is landed on the north-west coast of Scotland, is certain from intelligence of all kinds ; but it seems to be as certain that he came in a single ship, without troops, attended only by about seventy persons, with some arms to put into the hands of his friends. But it may be wrong reasoning to lay the less weight upon it for that cause ; since it is not to be imagined that he would have taken such a step, without some strong engagements for support in this island, or for assistance from France, after their work in Flanders is finished, or probably both. How weak we are at home, is too well known to every body, & was so when we sent that fruitless reinforcement to Ostend. The letters from Scotland yesterday confirm the accounts of the Pretender's son being landed, and add, that many of the clans of the Macdonalds resorted to him, & that he was to set up his standard on Monday last. S^r John Cope is marched to Stirling, & from thence will proceed to Fort Augustus, to crush this rising rebellion in its infancy. Be ready to come to our assistance."

In the same letter, Lord Hardwicke affords us some account of himself, and of the family movements at this period.

"The regard you express for my health is very kind. It was, indeed, for a little while affected with a feverish disorder, which fell upon my spirits, (a complaint I never felt before), to which you may be sure the state of public affairs administered no relief ; but I thank

God that it is now entirely removed, & I am very well. Would to God the state of our affairs was as much mended ; but the clouds continue as black as ever, & how soon the storm may burst upon us I know not. . . .

I thank you for the particular account of your situation, which, by comparing it with the map, I think I pretty well comprehend. . . . I pray God preserve the army, & send His Royal Highness, (who has personally merited so greatly), some happy events to return home with.

* * * * *

“I have hitherto had the most disagreeable summer that I ever spent in my life, & I fear the remainder of it will not be much better. In one thing, indeed, I take great comfort, which is His Majesty’s return, whose presence was never more necessary than at present ; tho’ I fear that will prevent me of a great deal of that relief which I used to find in the country, & which is so necessary in my way of life. However, *sic eat*, provided we can but defeat the projects of the French & the Pretender.

“Jack & Jem go to-morrow from hence to Rest. Your mother & I shall return to London in a day or two, & what more of the country I can snatch this vacation will be in Bedfordshire, for my workmen stand a longer siege than your garrisons in Flanders, & will not yet surrender.

“Since writing what goes before, yours of the 26th, n.s., to your mamma, arrived. We rejoice much to hear of your health, of which you give so good an account. . . .

“Your mother thanks you for your letter, & joins with me in our prayers & good wishes for you. You have the affectionate compliments of all this family.”

“Pray lay me at his Royal Highnesses feet, with my most humble duty.”*

As Lord Hardwicke expected, he was allowed but a very brief respite in the country, being called back to London to resume his arduous and perplexing duties at the Regency Board before the end of August. Soon after his arrival in town he wrote a letter to his friend Dr. Herring, Archbishop of York, which is of high interest, as serving fully to develop without reserve the sentiments of the writer on the state of affairs at this most important and critical period. It also carries on the narrative of the events of this time:

“*Powis House, Aug. 31st, 1745.*†

“MY LORD,—I ought to have thanked your Grace long ago for your last kind letter; but tho’ you had the goodness then to wish me a speedy deliverance from Chancery, I have been chained to that oar within this fortnight, & the daily attendance there, together with others of a more disagreeable kind, hindered me from acknowledging that favour. Since that time I have, (with the interval only of two or three days at Wimpole,) been confined to this place, attending upon my duty of the twentieth part of a vice-king, & expecting the much-wished-for arrival of our Principal. In the mean time, we are threatened with having the *depositum* of the kingdom wrested out of our hands, and in the north the storm is gathered. Archbishops of York have before now drawn the secular as well as the spiritual sword, & I hope your Grace will stand between us & danger. That the Pretender’s son is actually in the north-west Highlands of Scotland, & that he is joined by some of the clans of Macdonald & the Camerons, mostly Papists,

* Hardwicke MSS., Wimpole.

† Ibid.

I take to be very certain. Infidelity has much prevailed here concerning this fact, tho' I think it is something altered; but I cannot help agreeing with your elder brother of Cant. that, in this case, want of faith proceeds greatly from want of zeal, which, in political faith, is the worst source. There seems to be a certain indifference & deadness amongst many, & the spirit of the nation wants to be roused & animated to a right tone. Any degree of danger at home ought now to be vastly the more attended to from the state of things abroad. *That* I lament from my heart. I think I see the evil cause to which it is to be ascribed, & yet I know not whether to wish that, by the public, it should be attributed to that cause. Where to find a remedy I know not. I see only the probability of one, & am not sure that will be taken. The success at Cape Breton is very considerable, a vast loss to France, & may be a very great advantage to this country. I wish we had more of these articles to balance the account.

“ Sir John Cope, with about 2000 men of the King's troops, is, I believe now in the Highlands, & I trust his force is sufficient, (by y^e blessing of God,) to crush this infant rebellion, provided it be properly exerted before the assistance, which the rebels undoubtedly expect from abroad, can come to them. The Marquis of Tweeddale has this morning received letters from Scotland, bringing intelligence from a spy, sent on purpose into those parts, that he had seen this young Pretender, & had been an eye-witness of several persons kissing his hand. His standard was set up on the 19th instant at Glenfinnen, on the borders of Moidart, the country where he landed.

“ I had writ thus far, when a messenger from Margate brought the good news that the King landed there about half an hour after three this morning, & wou^d be at

Kensington within two hours. Accordingly, His Majesty arrived there about two o'clock in perfect health, & really I think I never saw him look better in my life. He appears also to be in very good humour, & to value himself upon the hast he has made to us, when there was any apprehension of danger affecting this country. I have not time to add more, except that His Majesty told me the election of an emperor stood fixed for Monday next, & that I am ever,

“ My dear lord, most affectionately

“ & faithfully yours,

“ HARDWICKE.”

“ Is it not time for the pulpits to sound the trumpets against Popery & the Pretender ? ”

Lady Hardwicke returned to London with the Chancellor when he left Wimpole. In a letter to their son, Mr. Philip Yorke, who was then at Wrest, Lady Hardwicke stated as follows :—

“ The King is come, & looks well ; so far is good, but I have no more comfort for you. Your amanuensis says some measures sho^d be taken to make y^e Scotch lords exert themselves. Can you tell w^t will make double hearts true ? nothing but y^t will doe in y^t country, or success. Wee every hour expect news of an action : if y^t turns out well, y^t may make them act, perhaps ; if not, you'll easily see w^t must follow. I have not slept these two nights, but sweat & pray'd. It is said in town y^t some of y^e Highland lords were offer'd arming by S^r John Cope, w^{ch} they refused, & said they had no men to arm they co^d depend upon ; so he sent the arms he had bro^t with him for y^t purpose back. The Duke of Argyle is come to town, & done nothing ; & Duke Athol is gone to a town in y^e Highlands, & does

nothing neither. He has had Glengarie with him, whose clan has joyn'd the Pretender, & he is gone from him; in short, every thing is in a strange way, & nobody hardly is affected as they ought—at least, not as I am. I wou^d send Wade to-morrow into Scotland if I c^d, but y^e troops there are so few, w^t can be done? They talk of Dutch coming, w^{ch} I think nothing. This is the real state of things, however they may be disguised, & I fear Sir J. Cope's not equal to y^e business. God alone can save us, to whose merciful judgment wee must trust.

“ My lord hopes to come to you the end of this week for a few days, but don't expect him till you see him. May God hear the prayers of those who pray for prosperity to this country, for we are destitute, & simple, & wicked. I co^d say more, but w^t does it signifie. . . . Adieu, my dear child, at y^e present, & believe me, with y^e tenderest affection & love to you all,

“ Yo^r griev'd Parent.”*

The Chancellor and Lady Hardwicke continued in London, but judiciously sent off all the young fry to Wrest, where they were safe alike from the assaults of the Pretender, or any other mischief to which these troublesome times might render them liable. Lord Hardwicke himself appears to have borne the fatigue of his additional duties well, and to have patriotically laboured to save his sovereign's kingdom, without murmuring at the loss of his own vacation.

Lady Hardwicke, in a letter to Colonel Yorke on the 3rd of September, furnishes us with some further information, of which her lord was then in possession, respecting the rebel movements up to this date:—

“ The young Pretender is joined by some of the clans,

* Hardwicke MSS., Wimpole.

tho' I assure you it is not believed by many fools in town; & in the meanwhile his friends treat it as a ridiculous attempt, in hopes to lull the government into a false security, whilst they say the French & Spanish fleets are join'd with a number of land forces ready to put on shore. You know me well enough to guess what I feel, especially living by myself, as I have done this vacation, having sent yo^r brothers & sisters to Rest, thinking it better for them to be there, since yo^r brother was so good to be troubled with them, by w^{ch} he has made them extremely happy. W^t wee want at present is some of our own troops, for we think you will fight for us if you were here, & the nation does not like foreigners, especially at this time & on this occasion. God deliver us from all our foreign & domestick enemies, w^{ch} have made me older by ten years at least than when you left England. My lord is, I thank God for it, better in health than I could have expected in these hurrying times, especially as he had no vacation in the country; but now the King is come he hopes, towards the end of the week, nothing extraordinary preventing him, to goe to Rest.

“I am told some action is expected in Scotland, w^{ch} gives me great uneasines, for any bad success there at this time, might be of bad consequence; & what they call the Highlands, is two thirds of Scotland, full of woods & mountains. Sir John Cope was very near the rebels when the last letters came from thence. I wish yo^r old master there, for he knows the men & the country, having lived 11 or 12 year among them, & they know his firmness & zeal for the present Royal family.”*

At this critical period, Lord Chancellor Hardwicke

* Hardwicke MSS., Wimpole.

seems to have diversified the amusements of his vacation, by taking upon himself occasionally the entertaining and agreeable duties of a Secretary at War, and of a Foreign and Home Secretary ; and he appears to have been the King's adviser as to the measures proper to be pursued in each of those departments. The Chancellor was thus for the time indeed, not only the keeper of His Majesty's conscience, but of his sword also. Whether, as his friend Archbishop Herring was represented as having done, Lord Hardwicke ever accoutered himself in martial uniform, his papers do not record.

Some further account of the progress of the rebellion, and of the measures for its suppression adopted by the government, is contained in the following extract from a letter of Lord Chancellor Hardwicke to the martial prelate last named, which was written from Powis House, and which bears date the 12th of September.

“ His Majesty did a week ago yield so far to the advice of his faithful servants, as to order ten regiments (i.e. 6000 men) of his British troops to be brought over from Flanders, with Sir John Ligonier at their head, for the defence of this country. I know this will be some consolation to your Grace, especially as the Lords Justices had some time ago sent over transports to Williamstadt, & they are actually ready to bring them over, so that they may be here with the first fair wind. But you will be surprized when I tell you how this measure has been misrepresented ; that it is deserting our allies, & giving up the com'on cause ; & the ministry ought to be impeached for it. As if Great Britain was any otherwise essentially concerned in the com'on cause, than as the support of it tends to her own preservation ; or the whole com'on cause wo^d not be absolutely lost if Gr. Br. (from whence it re-

ceives its strength & treasure) should become a prey to the enemy. And, as to the ministry, I could draw a much better article of impeachment^t for leaving this country so unguarded, tho' even that they could not help.

“The rebellion in Scotland proceeds. The numbers of the rebels increase, & the young Pretender is in possession of Perth, & I wish they may amuse themselves there sometime. I believe indeed they are not all armed with fire-arms, & that (with the blessing of God) they might be easily subdued with regular troops; but without regular troops, I see not how. Some of the Dutch forces are sent to Leith, & we expect the rest in the river to-night or to-morrow morning, the wind being fair. You see how Cope has marched eastward to Inverness. I make no reflections on it, & he justifies himself; & is now making back again. Instead of being joined by the clans of Grant, Lord Reay, & Lord Southerland, he has been joined only by Sir Robert Monro's son & brother, with 200 men, much to their honour. But what is more surprizing, advice is received that Lord George Murray, the Duke of Athol's brother, who was in the rebellion in 1715, & pardoned, & has lived ever since with his brother, the Duke, & received favours from the government, & also a brother of my Lord Dunmore's, have joined the rebels. What symptoms are these? And those, I mean of the King's friends, & some of his servants, who at first propagated the spirit of incredulity, do now, with the same views, represent this affair as dwindling; that the rebels are a despicable rabble, crushed with all the ease in the world. It is the duty of every body, much more of those in employment, not to scatter terrors; but when there is a strange lethargy & deadness, and the spirit of the nation wants to be raised & animated, opiates should not be administered to them. * * * *

“Your Grace has the best compliments & wishes of my wife, & all this family. Here I am, with^t lying above three nights in the country yet.”*

Towards the middle of September, as the rebels had not come to London, Lord Chancellor Hardwicke ventured for a few days to go to his son at Wrest. From this place he was speedily recalled, and as he thought very needlessly. In which of his different before-mentioned capacities his services were now required it does not appear; but he wrote to Mr. Yorke from London two letters which are full of the interesting information relative to the rebellion, with which his mind was now wholly engrossed. At this time, however, certainly no alarm as to the issue of this affair appeared to haunt the mind of the noble, and learned, and gallant Chancellor.

“*Powis House, Sept. 19th, 1745.*†

“DEAR MR. YORKE.—*Parturiunt montes*; but the mouse is not yet brought forth. It has vexed me heartily to be so cruelly called away from the very short, but agreeable recess & pleasure, which I began to feel at Rest, to attend the labour when the birth seems to be so far off. A certain person feels many pangs & throes; but I perceive, plainly, his principal midwife ‡ does not undertake to deliver him; & he, (notwithstanding his partiality towards him, does not rely upon him. I have gone on thus far in metaphor; &, indeed, I know not how to describe the scene upon paper, in plain words. Imagine to yourself a situation where a man wants to bring about what he sees is impracticable; will not enable the old servants in his family to do his business; & yet is convinced that those whom he is more

* Hardwicke MSS., Wimpole.

† Ibid.

‡ Lord Granville.

inclined to cannot carry it on ; wishing on one side, & embarrassing on the other ; & then you'l have the picture of our *present family*.

“ I am just come from the House of Lords, where the Parlm^t was prorogued to the 17th day of October, just this day four weeks, & is then to sit to do business. The continuance of a rebellion in the kingdom makes that measure necessary, & on that foot only, I think it must *then* be opened, unless some great change, either on the one side or the other, shall happen in the mean time.

“ Things have been plainly laid before the proper party, & I apprehend a few days must determine what he will think fit to do of himself.

“ The rebels go on, their numbers are very uncertainly reported, & they say many of them are ill armed. They crossed the River Forth on Friday last, about six miles above Stirling, & it is supposed are marched to Glasgow, to raise contributions upon that city. It is believed by many that their intention is to come into England on the side of Lancashire ; a route w^{ch} I wish they may not take. One of the Dutch battalions of the first embarkation, sailed for Leith on Thursday last, & the others arrived the night before last in the river, with Lieutenant General Swartsenburg, a good solid Dutchman. We have prevailed that they should march directly for the North of England, to meet the rebels wheresoever they may enter, & to be joined by S^t George's Regiment of Dragoons in their march. I was much of opinion for this measure, because I think that the very appearance of a body of 2400 men marching towards them, & Cope's corps follow^g them behind, will strike terror, & give them great check. Five of our great ships are arrived in the western ports from the Mediterranean ; & tho' the ships want refitting, we have others ready to put the

men into, which will add considerably to our naval strength. The ten British Regiments which are ordered over, were all to be at Willemstadt on Saturday last, & the transports were there ready, so that we may expect them soon.

“ I am ever

“ Most affectionately yours,

“ HARDWICKE.

“ L^d Granville has lately taken the turn to command y^e P^r Treaty.”

Lord Hardwicke, in the other letter to his son, after referring to the operations of the army in Scotland, tells him—

“ We have two expresses from thence lately, the last of last night brings advice that the City of Edingburgh has opened its gates to y^e Pretender. He & his army took possession of it on Tuesday morning last, & he was proclaimed there, & lodged in the palace of Holyrood House. So he & my poor Lord Breadalbane are under the same roof: but I don’t imagine the good old man will suffer anything, but y^e surprize & noise. All y^e money of y^e public & y^e banks was sent up to y^e Castle, but they have seized some arms. The letters of Thursday night represented them to be 5000 strong, but I was glad to find by a letter last night from my Lord Justice Clerk, (on whom as to this I do most rely), that they entered Edinburgh no more than 2500, or at most 3000 men. But what a reproach y^t such a handfull should be suffered to make such a progress ! I will now turn y^e model, & show you the more pleasing news. Cope landed on Tuesday at Dunbar, which is not above 20 miles from Edinburgh & on the South side. He is joined by the two regiments of dragoons, & ’tis affirmed

little short of 3000 men. The Dutch battalion sent to him is by this time got up with him. We expect every hour to hear of an action, & God grant it may be better conducted & more successful than his march! The second embarkation of Dutch troops arrived all in the river yesterday, so we have now all y^e eight, which are properly disposed. The wind continues as fair as it can blow, & we expect the 600 British in the river to-day, for they were all embarked by Thursday night. God send them well here, I shall then believe we shall soon, by his blessing, crush this insolence. But the conduct of some has been monstrous; for ten days past, they have filled y^e court & y^e town that this affair was dwindling to nothing, & now they are in possession of the second capital of the kingdom. I fear the magistrates & people there have been very faulty.

“ I have not time to add more, but all our most affectionate compliments to my Lady Marchioness, & assurances that I am ever,

“ Most affectionately yours,

“ HARDWICKE.”*

Sir John Cope, who had been unable to save Edinburgh, landed his troops at Dunbar, the same day as that on which the Highland army had entered the capital, and was at the head of 2,200 men well equipped. On the 20th of September he encamped at Haddington, and continued his march on the following morning, expecting to meet the Highlanders, when he suddenly perceived them to the south, and in the rear of his army. He immediately drew up his men in order of battle. His right was covered by Colonel Gardiner's park wall, and by the village of Preston. Prince Charles Edward, the

* Hardwicke MSS., Wimpole.

young Pretender, left Edinburgh during the night of the 20th, and held a council at Duddingstone. On the morning of the 21st of September the encounter between the two armies took place, which ended in the entire defeat of Sir John Cope's forces, and the death of Colonel Gardiner, who fell bravely fighting, and in vain endeavouring to rally his troops. The triumph of the Highlanders was complete, and contributed vastly to animate the hopes of the Prince and his followers.

After the victory of Preston Pans, Prince Charles Edward returned in triumph to Edinburgh, at the head of his exulting followers, accompanied by one hundred pipers, playing the national air of "The King shall enjoy his own again;" and amidst the acclamations of the populace he proceeded to Holyrood House, the palace of his ancestors. He issued a proclamation, offering £30,000 for the head of King George, whom he styled the elector of Hanover, and alluded to the King's proclamation, promising a reward for the young Pretender's head, as an attempt to bring him to an ignominious death, in the same way that his royal ancestor of blessed memory, King Charles the First, had been made to suffer. One of these proclamations was forwarded to the Lord Chancellor, and is still among his papers.

The young Pretender, however, bore his good fortune with moderation and magnanimity. The wounded soldiers were treated with humanity, and the officers set at liberty on their parole, which the greater part of them dishonourably broke.

The victory at Preston Pans was an important advantage to the rebels. They not only obtained arms, artillery, and money; but, what was even of more consequence to them, confidence in their cause was now

inspired, both among their followers and those who had not yet openly declared for them.

The Archbishop of York wrote thus to Lord Chancellor Hardwicke, in reference to the battle of Preston Pans :—

“ I conceal it, but I own I conceive terrible apprehensions fro’ the affair at Preston Pans, where the conduct of our general, &c. was ———, I won’t give it the right name, but that of the rebels excellent, & from what I can collect, & y^e judgment w^{ch} I form upon y^e opinion of y^e soldiers here, they are admirably disciplined, & our men have felt it, well armed. Their resolution & conduct in taking the little battery was admirable, and as they are vigorous & savage, their leaders well know how to point their strength properly & effectually. There is something too in their artful taciturnity that alarms one. They say it is fact that from their setting out to this hour, it is not easy to say who leads them, nor are they seen, in a manner, till they are felt, so silent & well-concerted are their motions. I hope in God all this is known above much better than it is here, & that it is now seen that this rebellion is not to be quashed by small pelotons of an army, but must be attended to *totis viribus*. Who can say what wo^d be the consequence of such an advantage gained in England? What shall we think of the behaviour of the Scotch nobility on this occasion? Strong marks of treachery, my lord, when they fled their country, w^{ch} they might have saved by only standing up in Edinburgh in their own defence, & lending Cope their advice & countenance. L^d Loudon is an exception to this, who has behaved like a brave & honest man.”*

In the same letter the Archbishop gave the Lord

* Hardwicke MSS., Wimpole.

Chancellor an account of his own exertions on the side of government. At York, a meeting of the nobility and gentry of the county was held on the 24th of September, which was very numerously attended; and at which the Archbishop presided. A large subscription was raised, and many enlisted themselves as volunteers in the service of King George. The Archbishop states,—

“ The spirit of the country is prodigious, & we are all in motion, fro’ one end of the county to the other, & the L^{ds} will certainly do their duty. The city is so much in earnest, that they will make of themselves a considerable purse, & put between two & three troops into action. The L^d Mayor told me yesterday, that the lowest of the citizens contributed something. Oglethorpe is here, & has persuaded thirty or forty young gentlemen volunteers to follow him to Berwick, a sort of hussars. They are to rendezvous on Knavesmire on Monday morning. We must leave it to the general to consider whether a ball will inspire or enfeeble his myrmidons.

* * * * *

“ Besides the general sense of the danger, it is thought the spirit & courage of the people was raised by the news of the action in Scotland, w^{ch} appears to have been a surprize, not an engagement. The brave English were butchered in cold blood; a plain proof of the savageness of the rebel Highlanders, & that their leader is a man of blood.

“ This is grounded upon hearsay, & I should think, if true, not improper to be annexed to the other, [the account of the meeting at York], that the national indignation may run like wildfire.

“ The intelligence fro’ Berwick is that the whole affair was over in twelve minutes.”

Some notion of the state of London at this time, and of the rumours which were daily promulgated, is afforded by the following letter from Lady Hardwicke to Mr. P. Yorke. It bears date September 28, 1745.*

“The merchants have made a noble stand in regard to public credit, as you will find by y^e papers, & I hope stop^d y^e run upon y^e Bank, whⁱ is a great thing at this juncture. . . . In the meantime, our common enemies had spread a report that my lord was turn’d out, & the Duke of Newcastle & his brother run away, some said to y^e Pretender, & others y^t Lestock had produced three letters from him forbidding him to fight; as ridiculous & false as these reports may seem, they gain’d an universal run, & were propagated with uncommon adress; people were told at y^e turnpikes as they passed thro’, y^t London was in an uproar, & his Grace fled; nay, y^e mob gathered in crowds about his house, and saw some of y^e shutters unopened, from whence they concluded he was gone; & when he went out, they surrounded his chariot, & looked him in y^e face, & said, ‘It is he; he is not gone.’ What is our condition, when such monstrous lies are spread to increase the terrors of honest minds! It will be impossible now, I think, for my lord to think of coming to Wrest again this summer, therefore he desires you will give five guineas among your servants, for y^e trouble I & mine have given them, w^{ch} I will punctually repay on yo^r coming to town.”

Lord Chancellor Hardwicke, in an audience with the King, apprised his Majesty very fully of the activity and loyalty of Archbishop Herring, in whose promotion to the see of York, Lord Hardwicke, as already stated, had

* Hardwicke MSS., Wimpole.

been mainly instrumental. The Chancellor was therefore enabled to reply to the Archbishop's letter, in terms which must have been highly gratifying to the prelate. He here gives an account of his conversation with their royal master, on the all-important topic of the day; and of the satisfaction expressed by the King with his good Archbishop of York. The Lord Chancellor's own sentiments on the state of affairs at this time, and the particulars of the information he was then in possession of, are also here set forth:—

*“ Powis House, Sept. 28th, 1745.**

“MY LORD,—I return your Grace my hearty thanks for the honour of your letter, & the several inclosures, which I received yesterday morning by a flying packet. In this gloomy and melancholy season, nothing could possibly give me so much satisfaction as the uncommon zeal & ardour which has been shewn, by so numerous a representation of y^e great & loyal county of York, in the cause of their King & country. God grant that the glorious example they have set may be followed by other counties! But I own I feel a particular pleasure in the great & noble part, which your Grace has taken on this occasion, & in the gallant, wise, and becoming manner in which you have exerted yourself. I was so full of it, that I went immediately to Kensington, & gave the King an ample account of it in his closet. I found him apprized of it by the lord lieutenant's letters, which he had received from the Duke of Newcastle; but he was so pleased with it that he was desirous to hear it over again. I informed His Majesty of the substance of your letter, the sermon your Grace had preached last Sunday, & with such prodigious expedition printed & dispersed;

* Hardwicke MSS., Wimpole.

& when I came to your speech, he desired me to show it him. His Majesty read it over from beginning to end, & gave it the just praise it so highly deserves, & said it must be printed. I told him I believed it was printing at York, but it is determined to print it in the Gazette. If in this my commission is exceeded, I plead my master's commands; but I hope your Grace will not disapprove it, since my sincere opinion is, that it deserves to be so published, & that the topicks and animating spirit of y^e composition, are calculated to do much good. When I had gone thro' this part, I said, *Your Majesty will give me leave to acquaint my Lord Archbishop that you approve his zeal & activity in your service.* To which the King answered quick, *My Lord, that is not enough; you must also tell the Archbishop that I heartily thank him for it.* His Majesty also highly applauded the zeal, affection, & unanimity, which had appeared in the several lords & gentlemen on this occasion; the association, the largeness & generosity of y^e subscription; y^e union of all parties, & the general conduct of the whole; & doubts not but the same zeal & industry will carry this good work through, & complete the utility of it; for which no assistance or powers from the government shall be wanting. But these matters will be properly taken notice of, & answered, by the Duke of Newcastle, & the respective lord lieutenants.

“His Majesty also took particular notice of the good affections & vigour expressed by the lord mayor, aldermen, & city of York, which are highly agreeable to him.

“It is a most happy circumstance in this affair, that the unfortunate & shameful defeat of our forces under Sir John Cope did not cast a damp on your meeting. As it did not, the spirit & success of your meeting will, I

hope, give new spirits to the people, & abate the ill impressions of so tragical an event—just as the providential arrival of the ten British regiments from Flanders furnished a kind of armour to us in London against the first shock of that bad news. If those troops had not come in the critical moment, God only knows what wou^d have been the terror & confusion here. Let me tell your Grace, for your further comfort, that eight British battalions more, & 1500 dragoons are actually ordered to be brought over immediately. Transports are already provided here, & other transports are ordered to be taken up in Holland, so that they may take the opportunity of the first fair wind. I know some friends of yours, who have talked themselves hoarse in contending for this measure; & whose early advice, if followed some time ago, might have prevented, in all human probability, this dismal scene. But the conduct of *some persons* on this occasion has been infamous. However, I hope in God it is not now too late. A great body of forces will forthwith be sent to y^e North, & some of them are actually on their march. I contend every where they must be a *great body*, for the King's crown, the protection of his people:—the work of the Revolution, which has been building up these seven and fifty years, must not be risqued upon an even chance.”

Lord Chief Baron Idle, in a letter to Lord Chancellor Hardwicke, dated the 1st of October, and written at Edinburgh, gave some account of the state and prospects of the country, and the movements of the rebel party in Scotland. The perilous condition of Edinburgh Castle, and the flight of the Scotch Barons of the Exchequer, are also here referred to:—

“ I have just now had a letter from Leeds, wherein it

is said the manufacturers enlist very cheerfully, & there is no sign of disaffection amongst them there. I suppose those who in particular have the superintendency of Scotch affairs, cannot fail of advising a particular attention to the relief of Edinburgh Castle, where there is great treasure, w^{ch} wo^d prove of most mischievous consequence in the hands of the enemy. My barons are all fled. I have had a letter from S^r John Clark, from Durham, who is there with his lady & some of his family. He did not expect so sudden a reverse of fortune, as to be in exile so soon after what he had wrote to me. He says, after the surrender of Edinburgh he took shelter in England; but what is most remarkable is, that he seems not to know of Cope's defeat, & represents the enemy as boys and superannuated people. . . . God grant that we may see a speedy end of these commotions. But many are of opinion we see not half the scheme. Arms are greatly wanted. I am glad the merchants have taken so prudent a step in regard to the Bank. If the rebels had marched to Newcastle and taken it, which they easily might have done, it would in the end have thrown London into the greatest convulsions. I wish we could have a quicker intelligence by the ordinary course of the post. When the post comes from the North, it is four days from Edinburgh to York, & but two in going from York to Edinburgh."*

The rebellion continuing, Lord Hardwicke was still detained a prisoner in London, almost as close as if he had been taken armed among the rebel troops. He was actively and daily employed in attendances at council meetings, and in perusing the dispatches respecting the rebellion which were hourly arriving, of which he affords

* Hardwicke MSS., Wimpole.

us some account in a letter to the Archbishop of York, dated the 3rd of October:—

“ Letters came this day to the governm^t that General Guest had threatened to cannonade the town of Edinburgh unless they furnished him with provisions, & that, upon this threat, they had agreed to furnish the Castle with all they could want. This is good, provided he guards against a surprise, which he undertakes for. It is also writ that the rebels have begun to commit devastations & cruelties. I pity the poor sufferers, but the fame of it will do good. One inference I collect from their suffering the Castle to be supplied, which is, that they do not intend to stay there to compell that fortress to surrender, but will march forward, if they are not already set out. Some letters spoke of their designing to begin their march on Tuesday last. I wish Wade was nearer to them, but his troops advance as fast as possibly they can.

“ I have a very good opinion of the zeal and good countenance of your volunteer corps ; but I own my reliance is, under God, on the regular troops. Your Grace’s resolution is a magnanimous one, & becoming every good Englishman & Protestant.* The spirit you have shown proves you are above being intimidated. You are very good in remembering my poor wife. You know we have sometimes called her Cassandra. She is in raptures with you, &, with all the rest of this family, sends your Grace her best compliments, thanks, & good wishes.”†

At York, the feeling in favour of the existing govern-

* “ The Archbishop of York declares his resolution to die an English freeman, and not live a French slave.”—*Letter of Lady Hardwicke*.

† Hardwicke MSS., Wimpole.

ment was strong and decisively expressed, and active measures were in preparation for resisting the rebels, should they, as was anticipated, approach that city. In another letter, however, the Archbishop tells the Chancellor—

“ We have had two or three papers dispersed here, fro’ Edinburgh, fro’ the Pretender’s press, call’d the Caledonian Mercury. One of them consisted of a journal of his progress, agreeable to what we now know of it. Another was wrote with great fire & popular art, as the meditations of an honest impartial man in his closet, raising an argument of y^e plain signs of God’s finger in the manner & rapidity of his success. The third was a proclamation issued after Cope’s defeat, forbidding publick rejoicings in Edinburgh for y^e victory, as it was purchased wth the blood of his own subjects. These two last were calculated to do much mischief. I have ordered the postmaster to-day, and for the future, to open these letters when he suspects them, & undertaken to justify him.”*

Mr. P. Yorke, in a letter to his brother, Colonel Yorke, dated October 5th, informs him that the rebels “ are making preparations for advancing into England, probably by the Carlisle road, as we hear Berwick & Newcastle are secured. But sorry I am to express my apprehensions that, if they come on directly, the country may suffer a great deal before the troops, now on their march, can get up in a body fit to fight with & disperse them. A messenger of y^e rebels, an innkeeper at Perth, was secured, & upon search a paper found in his glove, signed by the young man C. P. R., wherein he tells his

* Hardwicke MSS., Wimpole.

friends in the north & north-west to be ready to join him on his entrance. Now or never is the word, no time for deliberation, & bids them think what they and their posterity are to expect if he sho^d fail of success. The fellow cut his throat, but 'tis hoped he may recover, & he has begun to make some confessions. . . . The rebellion is the only subject of conversation. All agree lenity & compassion are lost upon y^e Scotch, & y^t they must be reduced & kept in order by severity & discipline. The Highlanders begin to plunder & kill at Edinburgh. . . . The young Pretender exercises his authority by acts of state proclamations, & has a drawing room at Holyrood House, w^{ch} the Scotch ladies frequent in great numbers. But I hope this farce of royalty will soon be closed. On all accounts it imports us greatly to put an end to it without delay.”*

The extract which follows is made from a letter to Lord Chancellor Hardwicke, which was written by the Archbishop of York on the 6th of October, 1745.

“ Nothing new has occurred here lately. We are at present in a state of great repose, partly supported by the spirit which is stirring at London & in the southern part of the island, & partly from assurances given us that Berwick and Newcastle are in no present danger from the rebels. Our last advices are that they are divided into 3 bodies, the largest one of 4 or 5000 in Edinburgh and the camp, 2000 returned into the North to gather their oats, & 1000 marching towards England. Oglethorp tells me to-day, this is their present situation. The Castle seems to be in danger; but I hope Guest will hold out till relief comes, at the worst. Their attention to that business, & y^e secession for y^e harvest time, will

* Hardwicke MSS., Wimpole.

give the King time, what is most wanted at present, to collect and march his army. Oglethorp is very alert, wants to collect our Lord Lieutenants & their forces together, & in conjunction with the Cleveland men to make the mine of opposition; at least to try to make their rascals suspend their incursions. I see from L^d Somerville's own hand that his house has been plundered, & three of his servants killed upon y^e spot; but two of the Highlanders were killed afterwards, w^{ch} he heard wou^d occasion setting fire to his house. Oglethorpe tells me that y^e Scotch nobility in the K. interest have offered, if empowered to do it, to regain the kingdom; it had been easier, perhaps, to have prevented the loss of it. I never had an opinion of Scotch faith, & now I am sure I never shall.

“ I purposed to have set out for London on Wednesday next, but I have had a sort of remembrance from the city here, that it will create some uneasiness. There is a great matter in opinion, & if my attendance at B^p T^h serves to support a spirit, or to preserve a union, or that the people think so, I will not stir. For nothing is so hurtful at these times of suspicion as a panic, which perhaps, as it is easily occasioned, is as easily prevented:— I am sure it is so, if my presence will prevent it. I have therefore put off my journey, but ordered my affairs so, that at the least intimation from your l^p I can *vasa con-clamare*, & set out in an hour. To talk in the style military, (tho' my red coat is not made yet,) the first column of my family went off a week agoe, y^e second moves on Wednesday, y^e 3^d attends my motions. I purpose to leave my house in a condition to receive the Marshall, if he pleases to make use of it; & there is a sort of policy in my civility too, for, while he occupies it, it can't be plundered. I know your l^p has ever an

anxiety for your friends, but, if I must fly, the General & his Hussars have offered to cover my retreat. But enough of this. I had rather laugh when the battle is won, & could not help putting up an ejaculation at the Pond Side to night,—God grant I may feed my swans in peace! Y^r lords^p will be so good as to excuse my attendance at the opening of Parliam^t to my Royal Master, if he condescends to enquire after me.”*

The long vacation was now approaching its close, but no commencement of a vacation was yet in prospect for the Chancellor, which caused considerable uneasiness among his family and friends, who feared naturally that his health, never very strong, might be materially injured by such over-exertion and want of relaxation. No murmuring, however, at having duties thrown upon him, which others ought to have borne the weight of, is to be found in any of his letters; and he continued to aid the government daily with his powerful understanding. The feeling in the north of England, and in the city of London, in favour of the reigning monarch, afforded much encouragement to the ministry. A reference to this is contained in the following extract of a letter from Lord Chancellor Hardwicke to the Archbishop of York, written on the 12th of October.

“The continuance of that fine spirit which has shone forth with so much lustre in your part of the North, rejoices me, as well as the success which has hitherto attended your meritorious labours. In the South it has been greatly propagated, & the raising of regiments does in several parts go on, tho’ I cannot say that the association & subscription in the City of London has made all the progress that one could wish. The meeting in

* Hardwicke MSS., Wimpole.

Surrey was a prodigious one, & shewed great zeal & alacrity. As to General Ogelthorpe's intelligence, that the Scottish nobility had offered, if empowered, to regain the kingdom, I cannot say that I have heard of any such offer. Some few lords, indeed, have talked of raising men in Scotland, in case the rebels leave it and march into England; but I fear that will be a work of time, especially after all that has happened. I think your Grace has determined quite right in staying for the present at Bishop Thorpe, & every body here thinks so too. As soon as Mr. Pelham returns from Sussex, whither he went on Thursday to a general meeting, I will acquaint him with the reason of Mr. Frankland's staying with you. I find your Grace has learned the style military, & presume, tho' the paragraph about your red coat was not true, yet you are by this time skilled in the exercise, & can give the word of command. It brings to one's mind Shakespear's Henry IV. '*My gentle Lord of York—assembles all his powers.*' Tho' it happened that predecessor of your's mistook his side."*

The troops that had returned from the Netherlands, were now placed under the command of the Duke of Cumberland; the regiments were raised to their full complements; and, as apprehensions were entertained of a landing of French troops, a fleet was collected in the Downs, under Admiral Vernon, who was ordered to watch the movements of the enemy, and particularly to keep a vigilant eye upon the harbours of Dunkirk and Boulogne.

Great panic existed in London among the trading community, and those concerned in the money corporations. Even the King is said to have embarked many of

* Hardwicke MSS., Wimpole.

his most valuable effects on board vessels which lay in the Thames ready to set sail at a moment's notice.

Parliament met on the 17th of October, when the two Houses voted addresses expressive of their attachment to the person and government of the King. The draft of that of the Lords is in the handwriting of Lord Chancellor Hardwicke. The House of Commons suspended the Habeas Corpus Act, and several persons were apprehended on suspicion of treason.

The Archbishop of York mentions, in one of his letters to the Lord Chancellor—

“I am frighted with stories of bloody frays every day between y^e D.* and English. It seems our fellows are perpetually twitting them wth their poltronerie at Fontenoy. Would to God we were rid of them, & in due time with all connection wth their perfidious masters. They quarrell'd on Monday night, at Ferry Bridge.”†

The army on the side of the government appears to have been well received by the populace in England. Mr. Edwin Lascelles, M.P. for Scarborough, wrote to the Archbishop of York, from Newcastle, on the 25th of October, and after stating that the Royal Regiment, under General Oglethorpe had just reached that place, after four days' march from York, the letter proceeds—

“We were received thro' every town we passed wth the greatest acclamations of joy, bells ringing, & firing of guns; the old women prayed for us, & the young ones wished us a safe return.

* * * * *

“The rebels are marched out of Edinburgh, in three or four divisions, & that for y^e south-west have eight

* Dutch.

† Hardwicke MSS., Wimpole.

pieces of small cannon ; but as we cannot learn that they have gone above five or six miles, it is very uncertain w^t they design.” *

The spirits of the gallant Archbishop of York did not appear to flag as the hour of danger approached. In a letter to his friend the Chancellor, written about the end of October, he describes in graphic terms the effigy of himself in martial costume, which had lately been given to the world—

“ I find I must get into regimentals in my own defence, in a double sense ; for an engraver has already given me a Saracen’s head, surrounded with a chevalier in chains, & all y^e instruments of war, & y^e hydra of Rebellion at my feet ; and I see another copperplate is promised, where I am to be exhibited in y^e same martial attitude, wth all my clergy wth me. By my troth, as I judge fro’ applications made to me every day, I believe I co^d raise a regiment of my own order ; and I had a serious offer y^e other day fro’ a Welch curate, fro’ the bottom of Merionethshire, who is six foot & $\frac{1}{2}$ high, that hearing I had put on scarlet, he was ready to attend me at an hour’s warning, if y^e B^p of Bangor did not call upon him for y^e same service.

“ Well, my Lord, I hope in God we shall one day laugh at these things at full leisure. As yet, I instantly return to seriousness. A fellow fro’ Scotland told me t’other day, that old Broadalbine was in Holy Rood House, under Charles’s protection, w^{ch} I did not believe one word of.” †

A letter written to the Archbishop from Dumfries, on the 3rd of November, says—

* Hardwicke MSS., Wimpole.

† Ibid.

“This evening an express arrived with an acc^t y^t 1800 rebels were come to Peebles, 16 miles from Edinburgh, last night. Another is just now come in who confirms it, and adds y^t soon after another body of about 3000 came up; with them 150 carts, loaded with baggage and ammunition. In this case they certainly intend to get past our troops into England, either by Kelso, or through this county.”*

There are also several other letters written about this time, which contain accounts of the movements of the rebel army. While at Dalkeith, they were said to be collecting all the horses they could. They are described as being in high spirits, and 10,000 strong, and “in great hopes of being joined by a French force, under the second son.” It is also stated that no less than £5000 had been collected among the disaffected for the use of the Chevalier during the last five weeks. Another letter mentions—

“The rebels have got 3000 horses. Some people say, they have provided these nags for the French.”

Some interesting information on the all-engrossing topic of this part of the Chancellor’s career, is contained in a letter to Lord Chancellor Hardwicke by the Archbishop of York, written on the 3rd of November. The narrator to the Archbishop is a Scotch refugee, out of Aberdeenshire, who had escaped from the rebels, and was at this time with the Archbishop, at York. He thus describes the young Pretender:—

“He is of undoubted courage and resolution, and determined to conquer or dye, as he has publicly professed. His presence is good, & he affects a very winning affability,

* Hardwicke MSS., Wimpole.

conversing with the lowest now and then. He is said, too, to have a very good understanding. My author thinks himself pretty well inform'd, that most of the things that have been well done in y^e progress of his affairs, have been done by his own advice. And he was with great difficulty restrained fro' charging at y^e head of his men at y^e battle of Preston Pans. I enquired into the truth of what is said of his attachment to his religion, & was answer'd that he & all his people have purposely avoided shewing any thing like it. That he never has mass said, has not a priest about him, & declined any communication wth y^e episcopal divines. As to his army, he confirms y^e notion of their being 8000; that they have y^e best intelligence; that they certainly will not disperse for reasons of fear; that they will act *pro re natâ*, & not come into England, unless it appear y^e eligible scheme; & that, if they do slip Wade, they will march like a torrent. He speaks of it as a certainty that their chiefs extremely regret their not pursuing their advantage at Haddington, w^{ch} does indeed look like an infatuation in them. They boast that half of Wade's army, & particularly the D.,* will either be passive, or act with them, & endeavour to persuade their people that many of the English gentlemen who are associated, will in due time pull off the mask, & declare for them; it being, they say, the only method left for their friends to arm in their favour. My author halted at Newcastle, & made his observations there, & the reports he brings are disagreeable."

Great doubts were entertained of the integrity of many of the soldiers; and the Scotch and Irish, and several of the Dutch, were found to be Roman Catholics

* Dutch.

and disaffected. There were also reported to be Popish priests among them in disguise.

In another part of his letter, the Archbishop states that he has been informed that—

“The people publickly about the Pretender are weak ones, but that there are able heads behind the curtain, who draw up all their publick things.”

In a postscript to the above epistle the Archbishop adds—

“As to what I have said of this young adventurer’s affability, I have reason to retract it, being assured that his behaviour is rather stiff. . . . There is one thing worth observing, that the spirit of enthusiasm is very strong in the army, & that there is amongst them a sober turn of religion, an instance of which he knew in the behaviour of two Highlanders, who were treated by Dr. Wiseheart’s lady. She said the fellows cover’d their faces wth their bonnets, & s^d grace, observing to her that they kept up that good old custom, tho’ the fashionable folks had dropp’d it. They profess’d themselves Protestants, & determin’d friends to hereditary right.

“I must give your lordship a mark of this young man’s religion. Upon being called to attend his father to mass, he refused with an oath to go, for it had cost his father three kingdoms. For his courage, it seems Schulemberg said of him that he should be loath to have a crown w^{ch} that man had a right to.

“I find two stories current in Edinburgh to y^e disadvantage of a great D. One, that he gave it as a reason for his inaction in Scotland, that he did not choose to have two halters about his neck at once, fro y^e severity

of y^e disarming act, & y^e progress of y^e Chevalier. The other intimates y^e opinion people have of him; for, in a conversation, where some Highlanders were jocosely parcelling out his estate, a sly bystander asked y^e gentlemen whether y^e Duke's neutrality had no merit in it.

“Mr. M^c Laurin, who converses with many young gentlemen that have travelled, seems to think it likely that this young man is in the scheme of no religion at all, but of y^e loose deistical turn so prevalent at present.”*

Lord Chief Baron Idle sent the Lord Chancellor some further account of the movements of the rebel forces, in a letter written from Westow on the 9th of November :—

“On Sunday last Marshal Wade & Gen^l Huske set forwards for Berwick, & staid at Morpeth for y^e troops coming up, which were to set out from Newcastle on y^e 4th; but y^e Marshall receiving an express very late on Sunday night that the rebels had made two marches from Edinburgh, & took the west road, countermanded the march of the troops, and on the 4th returned to Newcastle. It is said from thence that 5000^d of the rebels were at Kelso on the 4th, & it was thought wo^d go to Wooler the next day. This seems as if they bent for Newcastle. An account from Dumfries, states that a considerable body of y^e rebels were to go to Moffat, that y^e quartermaster demanded quarters for 4000 foot and 600 horse, but the numbers are uncertain. This place I think is about 25 miles from Carlisle, & in the road to it from Edinburgh. From this we may conjecture they aim for Lancashire.”†

* Hardwicke MSS., Wimpole.

† Ibid.

The following letter from the Archbishop of York to the Lord Chancellor is remarkable, and deserving of an attentive perusal, as evincing the opinions formed by that able prelate of the really critical state of affairs at this period, when the issue of the great conflict was at last admitted to have become doubtful:—

“*Nor.* 10, 1745.*

“MY LORD,—Whatever be y^e issue of this doubtful state of things, & however it may please God to deal with this distracted nation, the present ministers, who have the confidence of His Majesty & the conduct of public affairs, will be sure to have y^e approbation of all good men for their integrity & very singular patience, which certainly has been tried to the utmost. The great consolation I rec^d at this fearful juncture arose from y^e prospect of our hearty unanimity, w^{ch} certainly, if kept up to its first appearance, wou^d have done y^e work without bloodshed; but that prospect is over, & long before this our enemies are convinced from London that there are still people enow that are either so weak, or so designing, as to help their cause much better than their faithful ally fro’ France can do; for I do assure you such is y^e judgment of all good people here upon y^e late division at W——r. Nobody wou^d much have wondered to have seen such behaviour in Jacobites; but that any man of sense of a better denomination shou^d join such malcontents is beyond comprehension here, more especially when we are told that y^e dependants of a certain very great man have lent a helping hand to ruin their master’s family. For my part, I can find but one reason for the conduct of some Whigs on this occasion, but that they really think the danger is all over, & that they have nothing to do but debate *en*

* Hardwicke MSS., Wimpole.

gayété de cœur. It were well if these gentlemen would consider, that before we set about improving our constitution, they shou^d be quite sure that we have any constitution at all.

* * * * *

“The postmaster at Dumfries told me by Wednesday’s post he heard he shou^d be able to write no more, & by his silence on Friday I judge the rebels were at that town, & are now moving westward. For God’s sake, my lord, obviate as much as possible y^e notion that the enemy are contemptible & Wade invincible: neither is true; y^e enemy is now certainly extreamly formidable.”

A letter from Newcastle to the Archbishop of York, written on the 8th of November, states that Marshal Wade had received an express from Colonel Ligonier, apprizing him that—

“Forty of the rebels passed the Tweed, near Kelso, & proclaimed the Pretender King of England, & went directly back again, & marched to the north-west.”*

On the 11th of the same month some further information as to the movements of the rebel army was obtained by a government spy, who had been among them, and who said that he left them at Rawcliffe, within three miles of Carlisle, the day before. That they had about nine field pieces; and he believed there might be 1000 horse in the division he saw. Another party were to be at Rawcliffe the next night, in case they could get their heavy artillery up, which was then behind them. He also stated—

“They talkt very largely as to their numbers, but

* Hardwicke MSS., Wimpole.

from all accounts he co^d gather from those who had seen the second division, he thought their amount wo^d not exceed 10,000. They march with droves of black cattle & sheep, three waggons of biscuit & cheese, which they sit down at noon to eat. At night & morning get a little oatmeal, which they buy up among themselves, or take away wherever they can get it, & constantly carry it in a leathern bag for their subsistence.

“Every one has a sword, a target, a gun, & a durk. The rear always push forward the front, & they march in a very great hurry. They wish much to be in Lancashire & Wales, & offer ten guineas to any volunteer who will go to the Chevalier. This examinant says he had the same offer made him. They march always by daybreak, & sooner when they have the benefit of the moon. The main body encamps every night. The officers go to towns or houses. The baggage guard is relieved every day, & consists of ab^t 300.”*

The following information also accompanies the examination :—

“By undoubted intelligence, the rebels appeared yesterday afternoon facing Carlisle, between the English & Irish gates. The castle & citadel fired about thirty guns in a few minutes at 2 o’clock. Several were likewise heard at one, & afterwards at 3, this morning, but with what success we cannot tell, all communication being stopt.”†

An express which was sent off to the government at this time states that “the rebels have surrounded Carlisle, which is determined to defend itself; & the

* Hardwicke MSS , Wimpole.

† Ibid.

former have just erected a battery at Gallows Hill, abt a quarter of a mile from the town.”*

Another letter written from Morpeth on the 14th mentions :—

“The rebels passed Solway Frith on the 8th, after having lost a great many men by desertion, & one cannon in the quicksands. The men refused to pass this Frith, & mutinied, but were compelled at length by their chiefs. On Monday, at 8 in the morning, they attacked the south & west gates of Carlisle, not by ladders, but with piques & matchlocks (as is said), & were repulsed. They renewed their attack several times, till two o’clock, when they retired to Brampton, a place 8 miles on this side of Carlisle. ’Tis reported here that they made another attack on Tuesday, with no better success. But some are afraid of the place if they persist.

“The late Provost of Edinburgh left it two days before the rebels. The city is now in the hands of General Guest, & of the townmen.”†

One letter states that there was not at that time a single Highlander in Edinburgh.

An express was sent to the government from Penrith on the morning of the 15th of November, informing them that the Governor of Carlisle had dispatched a person to Marshal Wade, telling him that “it is agreed that the town shall this day be deliv^d up to the rebels. . . . The Governor has determined to defend the Castle to the last extremity. . . . The rebels use the country people very barbarously. They declared they would force them to carry their ladders to the walls of Carlisle.”‡

* Hardwicke MSS., Wimbold.

† Ibid.

‡ Ibid.

This city accordingly surrendered to the invading army.

A letter from the Chaplain of Archbishop Herring, which was written to Mr. P. Yorke on the 20th of November, contains an account of the surrender of Carlisle, and mentions that “the post-boy who brought the account, reporting at the same time that the rebels were at Brough, and intended making us a visit, the whole City of York, not excepting the corporation, was in the utmost consternation. However, our spirits were raised again by an express which we received yesterday from Penrith.” The latter informed them that the rebels had determined not to march in the direction of York, for fear of encountering Marshal Wade. The writer also stated,—

“We heard yesterday, (from the south,) that the government had received an account of an insurrection at Shrewsbury, and of one intended at Chester, in favour of the P——r.

“The inhabitants of Hull take care of themselves. We have not another town in the whole county that is defensible. The City of York is walled almost round, but the condition of the walls is very bad, and we have not a single piece of cannon ; besides, the city is so large that it wo^d require 10,000 men to defend it. If the rebels sho^d come this way it will be by the advice of the D. of Perth. He used to spend his winters at York, & always was intent upon corrupting the minds of the people.”*

A letter from Professor McLaurin, written at the College of Edinburgh, on the 21st of November, contains an account of the conduct of the rebels while

* Hardwicke MSS., Wimpole.

pursuing their march into England, and also some anecdotes relating to them.

The writer says,—

“As they went south, they committed greater outrages than formerly. They shot all the Marquis of Lothian’s fallow deer, seven excepted; & when some of their chief officers called to them from the windows to forbear, they fired at them. These were Mac Donald’s and Keppock’s men; & when Keppock was applied to, he answered he could not help it. They boiled the venison, & eat of it till they were sick, then sold the skins for a trifle.

“Tho’ poor Lady Lothian got no sleep for two nights while the deer were killing about her doors, she invited Lord Elcho, who with his horse were quartered on her, to a good bed in the house of Newbattle; but he answered that he was resolved to sleep in a hayloft till the restoration. The servant innocently repeated the message that he was resolved to sleep in a hayloft till the resurrection. However, the young Lord got such a tooth-ach that night, that he was glad to get into the minister’s house the next, & get his bed warmed, & warm drinks.”*

The following letter from Mr. Charles Yorke to his brother Colonel Yorke,—who was now with the Duke of Cumberland’s army to oppose the insurgents,—is undated, but must have been written during the progress of the rebels towards Derby. The account contained in it of the panic occasioned by this, and the anecdotes which it relates, will be found highly interesting.

“*Tuesday night, 10 o’clock.*†

“DEAREST JOE,—I wrote an exceedingly jejune letter

* Hardwicke MSS., Wimpole.

† Ibid.

to you yesterday, of six lines, by Mr. Yorke's desire, concerning Mr. Townshend's chaise ; & now sit down by papa's direction to thank you for your letter to him, & to say that he will be glad to hear from you as often as may be convenient, & he is sorry that he is unable to write to you himself. You say the terror which the rebels carry with them spreads all over the country, as it prevails here. The roads in Nottinghamshire, within these three or four days, we are told, were crowded with gentlemen & ladies, & all the considerable families in the country flying from it, so that the inns could not contain them, & many were obliged to sit by the fireside all night for want of beds. The Duke & D'chs of Norfolk left Worsop Manor & went to Bath. The strongest instance of this kind is told of one Mr. Williamson, a man of great fortune, acquired in trade, who lived near Bloomsbury. He quitted Yorkshire upon the rebels passing by Sir J. Cope when he marched to Inverness, & came up to London, where he has lived in such anxiety as to be deprived not only of that reasonable share of tranquillity which a wise man maintains in danger, especially whilst it is at a distance, but of his very sleep. He then obtained a pass from the King into Holland, & resolved to part from his family, which consists of two or three daughters. He gave them proper power over his affairs, took his leave of them, & set out for Harwich. When he came there he staid about a fortnight or three weeks to listen after news, & when he found that the rebels advanced, & the storm gathered instead of dissipating, he put himself into the packet, & is gone to the Hague, to reside there till the troubles are over.

“The following story is from Scotland, of a trait or two of the conversation between the young Pretender

& the old Earl of Breadalbane in Holyrood House. When the Pretender came to see him, the old man avoided ceremonies by saying that he could not stir from his chair, & endeavoured to shorten the conversation by complaining of his deafness. Amongst other things which passed between them, the Earl said, ‘Sir, I believe I am the oldest Peer in Scotland, & the only one who remembers your Royal Grandfather in this Palace.’ (Y^e Pretend^r) ‘Do you remember him, my lord; pray how did you like him?’ (E. of B.) ‘In some respects, sir, very well; in others I had great objections to him.’ (Y^e Pretend^r.) ‘Perhaps you did not like his religion.’ (E. of B.) ‘No, sir, it did not suit with Britain.’ (Y. Pret^r.) ‘That might be an objection to my grandfather in those days; but at present Princes, as well as private men, have too much sense to suffer any impediment from religion in the pursuit of great views.’

“Good success attend your Roy^l Master, & yourself, & fellow soldiers. The hopes of the nation rest upon your services. In haste.

“Yours affectionately,

“CHAS. YORKE.”

The rebels were now advancing into the heart of England, but the precise point of their destination does not appear to have been known.

The loyalty of the legal profession seems, however, at this period, to have continued undiminished. On the 23rd of November, Mr. Charles Yorke mentions in one of his letters,—

“The whole body of the law, in 250 coaches, waited on the King with an address & association, & were received with the same ceremonies of His Majesty on the Throne, the great officers of State round him, & an

answer in form, as an address of Parliament is received.”*

Of the address itself presented by the learned body in question, Mr. C. Yorke thus speaks in the same letter.

“’Tis pity the paper was not a little better penn’d; surely if any body of men were furnished with peculiar topics for a performance of dignity & elegance upon this occasion, it was that of the law. But this is not a time to be nice about words. We don’t live on syllables, nor are we to be defended by them.”

The following answer on this occasion was returned by His Majesty to this loyal address, and which appears, from the draught in his handwriting, to have been prepared by Lord Chancellor Hardwicke.

“I thank you very heartily for this affectionate address & association. The duty and zeal you express for my person and government, in this critical conjuncture, give me great satisfaction; and your influence and example cannot fail to have a good effect amongst my people.

“The law of the land has been allways considered by me as the sure foundation of the prerogative of the Crown, & the liberties of the subject; and you may depend on my constant care to preserve that law, & to protect and encourage the professors of it.”†

The memorandum which follows is indorsed on the above paper, and probably refers to the number of mem-

* Hardwicke MSS., Wimpole.

† Ibid.

bers of the respective Inns of Court, who joined the procession :—

“ Serj ^{ts} Inn, with the speaker, and masters					
in chancery	.	.	.	.	39
Line. Inn	.	.	.	.	104
Midd. Temple	.	.	.	.	90
Inner Temple	.	.	.	.	103
Gray’s Inn	.	.	.	.	45
					<hr/>
					381 ”

His Majesty on this occasion conferred the honour of knighthood on four of the judges, two of his own serjeants, and two of the counsel within the bar.

The Archbishop of York tells the Lord Chancellor in a letter to him, dated the 22nd of November :—

“ The rebels are come to Penrith, & we are told to-day that the most advanced party of them are on the Lancashire route to Kendall. It is not to be conceived, how frightful y^e hurry was in y^e city of York on Wednesday, while y^e apprehension was strong that they would take this road. They are a little quieted to-day by the hopes that they are turned towards Lancashire. If the next express differs from this, & they come this way, not a soul will stay at York that can move from it. Every sensible gentleman who I converse with in this country sees this matter now in a light y^e most alarming; & if it be otherwise in London, it is an infatuation that will ruin us. I sho^d think fro’ some of my correspondents to-day, that London is in great security, but, for my part, I have so strong a sense of the public danger, as Wade is so far off, & so fatigued & encumbered, & Legonier not come much forwards, that had I my royal master’s ear, I sho^d think it y^e duty of an honest man & good subject,

to tell him that his crown was in danger of being shaken ; & that whoever at this juncture co^d give him contrary advice, either knew nothing as he ought to know, or meant to betray him. This is warm, my Lord, but uttered in no spirit of fear, but fro' y^e clearest and strongest evidence.

“As to my own safety for the present, I will stay to y^e last moment, & if a scheme of defence of any likelihood can be formed, I will share in y^e common danger. If not, I know of no duty that obliges me to run y^e hazard of being knocked on y^e head, or taken prisoner. I stand ready to escape at half an hour's warning, & shall endeavour to do so. This, upon supposition that y^e ruffians take y^e York road : if they pursue y^e other, I am determined to fix my abode, & wait y^e fate of, & as I may, serve my country here. I have taken y^e best method I co^d think of to persuade y^e Lord Mayor, if he can't stand it out, to fly rather than submit to proclaim the Pretender.

“This morn. Nov. 23rd, express fro' Leeds brings certain intelligence that y^e vanguard of the highland army was on Thursday night at Kendall.”*

From Carlisle the rebels proceeded to Macclesfield. The following extract from a private letter, dated Butley Aske (two miles north of Macclesfield), Dec. 1, contains an account of their progress, & condition, & a description of their leader :—

“About three this afternoon, marched by the Pretender's son, at the head of two regiments of foot, one of which is called his ; he marched all the way from Manchester, & forded the river above Stockport, which took him up to the middle. He was dressed in a light plaid,

* Hardwicke MSS., Wimpole.

belted about with a blue sash. He wore a grey wig, with a blue bonnet, & a white rose in it, & it was observed he looked very dejected. The bulk of his people were very ordinary, only his own regiment seemed to be picked, & made a tolerable appearance. Their advanced guard got into Macclesfield before the main body passed this place. Their arms were very indifferent, some have only guns, & those but bad; some pistols, & nothing else; the rest swords & targets; their train of artillery consists of thirteen field pieces, some two, some four-pounders; two carriages laden with gunpowder, & two sumpter horses."

Mr. Charles Yorke says in a letter to Mr. Warburton, "into all the countries whither the rebels advance, the people fly before them with their families. In a word, the perfect confusion and terror every where, are what we rarely feel in England; but are nothing in comparison of the consequences depending upon future events, & the wisdom of a good Providence, which overrules them. Perhaps the happiness of an age may stand upon the hazard of an hour."*

The Duke of Cumberland, who, as already mentioned, had been summoned home with his army, now took the command of the forces to oppose the invaders. Colonel Yorke accompanied his royal highness as his aide-de-camp. On the 30th of November, a letter was addressed by Colonel Yorke to the Chancellor, from Lichfield, in which he gave the following account of the movements of the rebels:—

"The rebels were yesterday at Preston, & many people talk as if they wo^d stay there some days. They sent a

* Hardwicke MSS., Wimpole.

serjeant, a drummer, a woman, and a lad forward to Manchester yesterday, & beat up for recruits, at 5 guineas a man, some listed with 'em, & the money was paid 'em immediately, I heard 'em called thirty, but I believe neither the men nor money will hold out long at that rate. It was said yesterday in the evening, that Lord Elcho was got into Manchester with a 100 horse, & that the main body was to follow soon. People here (who are in their fears like the people elsewhere) are afraid they should move to Derby, & so be able to give us the slip & go to London, before us, but I am inclined to think they will not find that so easy, with the dispositions we are making.

* * * * *

“P.S.—Since writing the above there is advice that the rebels, or rather a party of 'em, are come to Warrington, & that the Liverpool regiment is retired to Chester. This shews their motion towards Manchester was only a feint, & to support their recruiting. Y^r lordship will have the particulars by the express that conveys this, the only thing that makes me doubt of the truth is, that they are said to have 16 pieces of cannon wth 'em, & some pontons or tin boats, which I believe is impossible.”*

Archbishop Herring, in a letter to Mr. P. Yorke, of the 30th of November, gives an account of a conversation which a Dr. Burton of York had had with the young Chevalier, Prince Charles Edward, by whom he stated that he had been taken prisoner and released. The Archbishop, however, had great doubts of the loyalty and veracity of the narrator.

“He told me he was examined by Charles himself,

* Hardwicke MSS., Wimpole.

which certainly was not *en Prince*, but you shall hear his dialogue as he relates it.

“ ‘ *Pretender*. Who are you, Sir?

“ ‘ *Dr. Burton*. Dr. Burton, a physician at York, and please your Highness.

“ ‘ *P*. What brought you here?

“ ‘ *B*. Some affairs in this neighbourhood.

“ ‘ *P*. How stood our friends affected at York?

“ ‘ *B*. Please your Highness they are very *unanimous* there.

“ ‘ *P*. Where is Wade with his army?

“ ‘ *B*. I believe, Sir, his motions will depend upon those of your R. Highness.

“ ‘ *P*. Where is Legonier?

“ ‘ *B*. I don't certainly know, Sir, but by our last accounts he is in Cheshire.

“ Exit Dr. Burton.

“ As to the person and attitude of this youth, he says ‘ he is very tall, genteel, and spritely, a long face, much freckled, and his eyebrows sandy. He was in a plaid and boots. Came in walking at the head of his party of foots, and has walked every step of the way fro' Edinburgh.’

“ It is another little anecdote of him that he got horribly drunk at Lord Lonsdale's, near Penrith.”*

The following description of a visit from General Oglethorpe, with some further account of the proceedings of the rebels, is contained in a letter from the Archbishop of York to the Lord Chancellor, dated December 4th.

“ Oglethorp breakfasted with me yesterday, & as he travels in character he fill'd my yard & my house wth troopers & hussars, who were prodigiously welcome to

* Hardwicke MSS., Wimpole.

my ale & bread & cheese. He complains much of the Dutch, & ascribes the hurt of our horse to a march to Newcastle at their sollicitation, when they could have gone to Hexham directly fro' Durham without any inconvenience at all. I heard afterwards that the people below stairs were free in their curses upon them, & speak of them loudly as a dead weight upon our army, & a set of slothful, dirty, dastardly, pilfering fellows. And indeed Oglethorpe told me that if only our own people (wth the Swiss, of whom all speak well), had been to march, they could easily have been at Manchester on Monday. I only hint these things to y^r lords^p, who, I dare say, thinks with me, that England can never be properly defended but by Englishmen. . . .

“ Last night eleven fellows were lodged in the Castle. One of them is a gentleman of Northumberland, Clavering by name; y^e rest are inferior people. One in y^e Duke of Cumberland's livery, his serv^t in Flanders. Another servant to the Lord Kilmarnock's son. They were pushing to their friends in Cheshire, had alarmed the town of Penrith wth demanding billets for 1000 men, and went through to Lowther Castle. There they purposed to spend the night, but the militia in Penrith took heart, 40 of them followed y^e gentlemen, attack'd them in y^e house & stables, fro' whence y^e rebels fired, & took them, wounded three, eight escaped, among whom was Kilmarnock's son. They took all their horses.”*

One of the government despatches contains the following account of the conduct of the rebels while at Manchester, and of their reception there:—

“ At 5 o'clock this morning the rebels marched out of Manchester; . . . they had cockades in their hats.

* Hardwicke MSS., Wimpole.

The rebels behaved civilly while at Manchester, & many of them paid for what they call'd; but in the country round they were very rude, in taking what horses they met with, & demanded money from some. . . . On Friday evening, after the whole body was come into Manchester, the town was illuminated with candles & bonfires, bells ringing, & bagpipes playing; but the mob was quiet, except the new recruits, who paraded abt the town with huzzas."*

Another letter states:—

" 'Tis said the Chevalier was so pleased with the recruits got at Manchester, & the money he was furnished with there, that he called it his loyal little London."†

The following anecdote is contained in the same letter:—

"Last Saturday evening the principal people of Carlisle, being desirous of keeping the rebel garrison which is in the Castle in tolerable temper, were in company with the officers till about 11 o'clock. But about one in the morning the rebels sent & took the gentlemen all out of their beds, & carryed them prisoners to the Castle. 'Tis supposed this was done by way of reprisal for the rebels that were taken near Lowther Hall."‡

Considerable alarm was now excited in the metropolis by the approach of the invading army, which had by this time entered Derby. Apprehensions were entertained that the Duke of Cumberland would not be able to come up with them. A proclamation was issued for apprehending Jesuits, Papists, and priests; and the Court of Lieutenancy of London resolved that two regi-

* Hardwicke MSS., Wimpole.

† Ibid.

‡ Ibid.

ments of the trained bands should be out every night, and one in the day-time. Additional watchmen and constables were ordered. A subscription was raised for the better relief and support of the soldiers in the King's army during the winter. A detachment was also sent to oppose any landing of the French on the coast of Kent. Alarm posts and signals were appointed to be made on the first notice of any tumult or insurrection in London; and orders were issued that no guns should be fired from the vessels on the river, for fear of any mistake as to the signals.

On the 18th of December there was a general fast; and the Chancellor, with the peers, went in grand procession to attend service in Westminster Abbey.

The next intelligence however received in London of the rebel army mentioned that "they are retiring northward with great precipitation."

A council had been held by them at Derby, to consider what course should be pursued. Great disappointment had been felt that more adherents had not joined them in their progress through the country; and they were conscious that they could not proceed to the metropolis without hazarding a battle, and that a defeat must be attended with certain destruction. The Highland chiefs began to murmur, and their followers to be unruly; and, after violent disputes, the majority determined that they should retreat to Scotland with all possible expedition, to the great mortification and disappointment of the young Prince. They accordingly abandoned Derby early on the morning of the 5th of December, and marched with such speed, that on the 9th their vanguard arrived at Manchester, and on the 12th they entered Preston, and continued marching towards Scotland.

Mr. P. Yorke, who was at this time in London, in attendance on his parliamentary duties, wrote to his brother Colonel Yorke on the 10th of December, and in his letter gave an account of the panic which had been excited in the metropolis by the approach of the rebel army :—

“The motion of the rebels to Derby threw us into no small pannick here, lest they sho^d give you the slip as they had done M. Wade, & get to London by hasty marches : our alarm was much encreased by the news of a large embarkation at Dunkirk, w^{ch} was intended for the South, & in concert with the Y. Pr. to land near the capital. The same terror, but in a higher degree, (as the strength to resist them was less,) has spread itself thro’ all parts of the kingdom, & to every great town on every road which it was possible for the rebels to take in their way to London. I hope their late motions, & those of the Duke, have put us out of all danger from these handitti.”*

A reference to the proceedings of the rebel party in Scotland is contained in a letter to Mr. Yorke, written on the 8th of December :—

“The rebel army in Scotland increases very fast, so that, considering the supplies they have got from France, we have as much ill to fear from this second army of theirs as we had from the first.”†

Lord Chancellor Hardwicke was now in London, and fully occupied with his judicial labours, which appear from his note books to have suffered little or no interruptions from the political disturbances which beset the country and the Chancellor. In the following letter to

* Hardwicke MSS., Wimpole.

† Ibid.

Colonel Yorke, he describes the alarm with which both the government and the town had been seized on the approach of that unwelcome visitor the Highland army, and the perplexities which had been caused by the apprehensions of an attempted invasion on the part of France. Lord Hardwicke here also states his opinion on the present juncture of affairs :—

*“ Powis House, Dec. 12th, 1745.**

“ DEAR JOE,—I have been concerned that I have not been able to find time to thank you for your letters, which I have taken very kindly. I was glad your last was from so good quarters as my Lord Guernsey’s,† but don’t wonder your patience is almost worn out. Sure I am mine is nearly so under this severe trial. Our alarms at London, when the rebels slipt by you to Ashburn & Derby, were prodigious. Every body thinking of arming; drawing troops together, of which we have here certainly too few, & hastning up your army to us. The Duke certainly made wonderful expedition, & to that I presume it is, in great measure, owing that the rebels returned back with precipitation. And now we are as full of fears that they will get back to Scotland unchastised, and join that growing army of rebels in the North. This morning early we were alarmed with an express from Seaford, that the French were actually landing in Pevensey Bay, in Sussex, which was soon spread over the whole town, & in a few hours after it was positively contradicted. But there is strong intelligence from Admiral Vernon of great preparations at Dunkirk ready to sail. This has occasioned the present messenger to his Royal Highness, which brings you this

* Hardwicke MSS., Wimpole.

† At Packington Park, near Coventry, where the Duke of Cumberland’s army was encamped.

letter. I believe the orders will be to strengthen Marshal Wade by a proper detachment, & march up the rest of your army towards London, in order to be *à portée* against an invasion, which is too reasonably apprehended. The opinion which prevails here is, that your pursuit of the rebel army is vain. That even your advanced party of horse, dragoons, & mounted foot, can never come up with them, & that that service must be left to Marshal Wade to cross upon them, if he is not got down too low. Some people have also had their fears what might be the consequences if you shou^d get too near them, out of reach of being supported by your infantry. These are things which I don't understand, & I dare say your leaders have deliberated & considered in the best manner; but it gives inexpressible vexation that they should run thus backwards & forwards at their pleasure, in spite of two considerable armies that are watching them. The great point is, we have two great dangers to guard against—a *rebellion* at home, an *invasion* from abroad. Our force is unfortunately hardly sufficient for both. The question is, how to apply and divide it in such a manner as may be most useful to both objects, for I think neither must be neglected.

* * * * *

“ I rejoice that you are in such good health & spirits, & pray God to continue them. Gaiety of spirits is an excellent thing; but, as you know I love you, you will bear one word of advice to forbear levities in your letters on this subject. . . . May God bless you. You have the kindest love & best wishes of all here, and in particular of

“ Your most affectionate father,

“ HARDWICKE.”

Colonel Yorke, in a letter to the Lord Chancellor, dated "Preston, Dec. 15th," stated as follows :—

"The rebels have fled before us in the utmost consternation thus far, & I am convinced in my own mind 24 hours more wo^d have decided this affair. Their horses are fatigued that they can do no more, our men in high spirits, & the country all up ready to join us, & assist us against the rebels, now they see themselves supported by the King's troops. What the consequences of our returning may be God only knows. The spirits of the soldiery and y^e poor country must be depressed. They may wait quietly at Carlisle for their reinforcements, refresh their people, put new life into 'em, ruin the bordering counties, & in a little while advance with fresh vigour & fury into y^e bowels of the land, in spite of all that M. Wade's army can do agst 'em; whereas, had we pushed on our advantages, & put an end to this body, the French would never have returned into the island, or, if they did, we should have had more than sufficient force to withstand 'em. This may appear foolish talk to people not upon the spot; but I am thoroughly convinced if your lordship was here you could not help seeing it in as strong a light as I do. We have lost an opportunity, & I dread only to think of the consequences.

"There are great dissensions among the rebel chiefs, w^{ch} goes almost to the point of fighting with one another, but this step of ours must revive 'em. . . . We have taken a captain & a cadet, besides private men."*

In another letter to Lord Hardwicke, written the

* Hardwicke MSS., Wimpole.

day after the preceding, Colonel Yorke tells the Chancellor,—

“I am in some fear the rebels by our halt of yesterday will get the start of us entirely, except they should happen to have a very good spy, who should have given them intelligence of our resolutions, & in consideration of their violent fatigues they sho^d think proper to repose themselves. Yet at all events we shall protect the country, strike a greater panick, & I hope make them quite sick of the thing.

“General Oglethorpe was at Lancaster yesterday, & has orders to push up to 'em as close as he can. The irregulars lay very close to the enemy last night, & I expect every hour to hear something new from that quarter. If Marshal Wade would but make a proper use of all this time, they would have a good chance of never seeing Scotland again.”*

Colonel Yorke wrote to the Lord Chancellor again on the 19th, from Penrith, and detailed the particulars of the engagement with the rebel forces at Clifton Moor.

We also find a letter from Colonel Yorke to Lord Chancellor Hardwicke, dated “from before Carlisle, Decr 24th 1745,” in which, after mentioning the retreat of the rebels from that city, with only three pieces of cannon and very little baggage, and their compelling their English recruits to stay in the town and castle of Carlisle to keep the King's forces at bay, he thus proceeds:—

“The garrison consists, I believe, of about 5 or 600 men, commanded by one Hamilton; & as we have yet been able to do nothing ags^t em but investing the place

* Hardwicke MSS., Wimpole.

that nothing may escape, they may be said to have held out. H. R. H. does not think fit to summon 'em, because he is for giving no quarter, & therefore chuses to wait patiently in a vile cantonment till every thing is prepared to attack 'em. We have got up some of the cannon from Whitehaven, & have procured some miners from the collierys hereabouts, so that I hope our battery will be ready to open to-morrow, & that a very few days will make us masters of the place."*

In the letter which follows from Lord Hardwicke to Colonel Yorke, the Chancellor explained at length the reason of the summons to London which the Duke of Cumberland had received while in pursuit of the rebel army, and which the Colonel had commented on in his correspondence with some warmth. In this letter Lord Hardwicke also describes fully the dangers to which the capital had been exposed, and communicates the information as to the projected invasion which had been received by the government.

“*Powis House, Decr. 10th, 1745.**”

“DEAR JOE,—Since my last I have four of your's to thank you for; two from Preston of the 15th & 16th instant; one from Penrith of the 19 & 20th, & the last from Blickhall, of the 24th, which came yesterday in the forenoon. The occasion of my not writing has been the incessant hurry I have lived in ever since, from the business of my office at the conclusion of the seals, mixed with perpetual attendance upon public affairs, which engrossed all my time except two days, which were worse employed by an indisposition; but that, I thank God, is gone off. Yours of the 16th gave me some uneasiness, but I have shown it nobody else. The

* Hardwicke MSS., Wimpole.

† Ibid.

Duke's of the same date gave a more general one to the King's servants, because it was apprehended that the affair of the halt or stop (as it is called) was for want of a full explanation of all circumstances at such a distance, not taken quite in a right light. The true state of the matter is this. The report of the French landing in Pevensey Bay had no weight in it; for that was contradicted in three hours after it came; but the King's intelligence of an intended invasion, & of the preparations for it immediately to be put in execution, were at that time strong & undoubted from all quarters. The number of forces from 12,000 to 15,000 men; the general officers, & the particular corps assigned for that service, specified nomination. The Duc de Richelieu was come down to Dunkirk with the Pretender's 2nd son; their transports & barks were in readiness; we had but few ships in the Downs; & had it not been for the accidental dispersion & driving many of the enemy's transports & barks on shore near Calais, the enterprize had probably been executed before now. Near this capital, the heart, we had not then quite 6000 men, & many of those new raised and raw. These circumstances, joined together with the retreat of the rebels out of England, made the King desirous to have his best troops in the place where the greatest danger appeared, & the most fatal stroke might be struck. It was His Highness's own original opinion; & he was also desirous to have his son near his person in such an exigence—who is his Captain General, & upon whom he had the greatest reliance. But all these considerations put together did not prevail to order his R. Highness to come back 'till his own letter from Macclesfield, (of the 11th inst. I think it was,) came that evening, wherein it was said that he intended to leave a few troops in Manchester, & then all the rest of that

army wou^d be about Litchfield & Coventry. I don't remember the words of that letter, but from thence it was understood by every body that His R. H. had given over his pursuit; & thereupon the King finally determined to send the orders for his return to London. The messenger who carried those letters, set out ab^t two o'clock on the Friday morning; on Saturday the 14th, in the forenoon, the Duke's letter of the 12th from Macclesfield arrived, which brought me yours of the same date. As by H. R. H.'s letter it appeared that upon the circumstances then existing, he had very prudently taken the resolution to continue his pursuit, another messenger was despatched by three o'clock in the afternoon, to leave him at full liberty, notwithstanding his former orders. If any time was lost by this, it was unlucky, but it cou^d be only a very few hours.

* * * * *

“It gives us the utmost concern to hear that the rebels aimed at the Duke, particularly when he reconnoitred. Personal considerations I know never weigh with him; but it is the ardent wish & entreaty of all his faithful servants that he wo^d not expose his person unnecessarily. Carlisle is not an object worth such a hazard. That shou^d be reserved for some greater & more glorious attempt. A storm too may produce the loss of many brave men, from a parcel of desperadoes; &, if they wou^d surrender at discretion, or in some other way, not unworthy the King's honour, might it not be the most eligible, as well as speediest end?

“Your mother & all your friends here rejoice in your escape hitherto, but pity the hardships you undergo. I pray God preserve you in health & safety, that we may have a happy meeting. The rigor & inclemency of the

season makes us uneasy on that head, but take the best care you can to avoid sickness.

“The French preparations still continue on the coast ; but it grows more uncertain whether designed for these parts or Scotland, tho’ I cannot believe that they intend to send the Duc de Richlieu, a favorite of the court, & so great a number of generals & troops to the latter.”

The Archbishop of York, in a letter to Mr. P. Yorke, written from Bishop’s Thorpe, on the 19th of January, 1746, tells him,—

“The secretary, who is your humble servant, is just come in fro’ York, who brings me word that 190 prisoners are come in fro’ Carlisle. They are lodged in the Castle, about forty of them extreamly sick, one dyed y^e moment he came in. Twenty of them are Highlanders. The officers out of Manchester are in good spirits, & well looking men. The French very gay. I am glad to hear a regulation as to y^e prisoners is like to be soon settled, for a delay of it may prove very fatal to the nation. The filth, & sickness, & close confinement of these wretches, may breed a contagion, very destructive to the publick.”*

There are some letters among the Hardwicke papers, written during December, 1745, signed R. Texier, and addressed to Monsr. La Cam, a person in the employ of the government, and offering to supply secret information respecting the doings of the Pretender’s party, and the designs of the French court. The writer said that, through a gentleman who had access to the French ministry, he could obtain intelligence relative to the cabinet, the army, and the admiralty, and the conduct of those employed as spies there. And that through

* Hardwicke MSS., Wimpole.

a lady then confined in a convent in France, he could procure very valuable information relating to the rebellion. He also stated that he could obtain some important papers from Holland; and that by means of the lady in France, he knew every step between the Jacobites there and those in this country, and could come at their cyphers and channels of intelligence, as well as the list of the concealed traitors at home; and could get access to every cabal in town. This lady he said was married to a Jacobite lord, who had forsaken her, and left her destitute with a child upon her hands. The correspondent in question deemed it, however, necessary to avow in distinct terms, that he was neither an adventurer, nor a vagabond; and descanted in a very pathetic style on the hardship of his being unable to avert the evils which were coming on his unhappy country, through neglect of his advice. This patriotic and disinterested writer did not, moreover, disdain to throw out some hints, neither very dark nor very unintelligible, that he was not at all averse to pecuniary recompense for his spirited exertions; that he had an innate dread of neglect by the court; and, though he hinted at martyrdom in one of his letters, yet even this he appeared to think ought not to be endured without a solid recompense for the discomfort attendant upon it.

The principal papers forwarded by Texier relating to designs on this country, were, however, dated in 1744.

The documents in question were laid before Lord Chancellor Hardwicke. The following diary in his own handwriting records his proceedings with respect to them.

“Memorand. Dec. 15, 1745. I showed these papers to the King, who was pleased to read those*

* Hardwicke MSS., Wimpole.

marked N^o 1 & 2, having read that dated Dec 5th before ; and I, at the same time, acquainted His Maj^{ty} with all y^t Mo^r La Cam had said to me. I asked His Majesty whether he had any com[']ands for me on this subject, to which he said no, & expressed a very ill opinion of the person referred to (viz. Count Cockain) & of y^e pretended discovery, & deliver'd back the papers to me. H.

“ *Dec. 27.* The King ordered me to put an end to this affair. Afterw^{ds} bid me acquaint the person that he observ'd from y^e extracts of y^e letters that they all related to what passed in 1743 & 1744, & those little material, & to demands of money on that account. That if he would produce to His Majesty or to me any material authentic intelligence relating to y^e present designs of France, or their projects or preparations concerning the present rebellion or invasion, he would hearken to it, & give such encouragem^t as he should judge proper. *This* he meant as a sop. If the person did not do *this* His Majesty desired that he would not give either him or any body else any further trouble. H.

“ *Jan. 10.* At the time I carried to the King y^e draught of his speech, His Majesty told me that the Duke of Roxburghe had been with him y^t morning, & acq[']ted him that *Texier* had applied to him, & desired to be taken into y^e custody of a messenger, & that he would make material discoveries. I told y^e King y^t I believed y^e name was mistaken, & y^t it was *Cockain*, who desired to be taken up. The King said possibly y^t might be so, & directed me to speak to y^e Duke of Newcastle y^t he might be taken up, if y^t co^d be done.

“ *Jan. 17.* I acq[']ted y^e D. of Newcastle with what y^e King had said, & deliv^d back to the D. of Newcastle the two papers w^{ch} I rece^d from him, & also *Texier's* letter to M^r La Cam, of y^e 31 of Dec^r.

“*Jan.* 18. I told La Cam that y^e affair was put into an^r channel, & to acq^t Texier I w^d have no more to do with it. La Cam said he entirely approved, & was heartily glad y^t I was out of y^e affair.”

The two letters which follow were written during the year now approaching its close, by the distinguished persons whose signatures they bear, to Lord Chancellor Hardwicke. The first of them is from Lord Bolingbroke, and the note appended to it by the Chancellor's eldest son affords the only explanation of it that can be supplied. The occasion of Lord Bolingbroke's proposed call, was probably of the same nature with those that had induced him before to seek interviews with Lord Hardwicke.

“*Battersea, Monday morning.**”

“MY LORD,—I have not only respected y^r continual occupations, but have done justice to my own inutility, which makes me fitter for abstraction than action, & to live with the dead than the living. The honour of waiting on y^r lords^p is a temptation that will carry me to town; other temptation I have none. I will wait on the day after to-morrow, about seven in the evening, and I shall be as long as I live with much respect, my lord, y^r lords^p's most obedient & most humble servant,

“H. S^t J. L. BOLINGBROKE.”

The following note, indorsed on this letter, is in the handwriting of the second Lord Hardwicke:—

“N.B. It is singular enough that this should be the last scrap of paper from L^d B. to my father, with all y^e professions of friendship interspersed in them. I cannot

* Hardwicke MSS., Wimpole. Indorsed by Lord Chancellor Hardwicke, “Nov. 18, 1745.”

account for it, & never asked my father how it happened. He was rather reserved about his intercourse with that lord. I believe Lord B. went afterwards into connection with R. H. H—ss, & when the Pr. of W. died was one of His R. H.'s ministers. He w^d from his experience & his abilities have been a better adviser than those who succeeded him in that court; however, the prejudices ag^t him were strong.

“ Lord H. was probably cautious ab^t having it known that he had intercourse with L^d B. ; & his own friends were jealous enough, particularly the D. of N.”

The next letter is from the celebrated Lord Chesterfield, at the period of its date lord lieutenant of Ireland. It refers to the promotion of a clergyman in Ireland, about which Lord Chancellor Hardwicke was anxious; and contains a reference to the state of affairs, both foreign and domestic. The elegant and graceful compliment to Lord Hardwicke, with which the writer concludes, is peculiarly characteristic of the style of this gifted nobleman :—

*Dublin Castle, Nov. y^e 28th, 1745.**

“ MY LORD,—Mr. Belcher brought me this morning the honour of your Lordship's letter, by which I find he has been misinformed as to the promotion of Mr. Tennyson, of which there is not the least probability, there being no vacancy upon the Bench, at present, nor any likelihood of there being any soon. I can with truth assure your lordship, that I am desirous, & even impatient to serve Mr. Belcher; but your lordship knows very well, that sometimes a certain concurrence of circumstances will make it impossible for one to do what one has the greatest mind to do. This was my case, with

* Hardwicke MSS., Wimpole.

regard to the place of Commissioner of Appeals, which I lately disposed of. The Lord Chancellor here, a man of great worth, solicited it strongly for the person to whom I gave it, the son of the Lord Chief Justice Marlay. Here are partys, though not of Whigg & Tory; & they insult each other, & are considered by the publick as supported or disgrac'd, in proportion as the favours of the government are granted or refused to each. And Lord Chancellor happened to be in such a situation, that a refusal of that small favour wou^d have stamped the disgrace of the government upon him, & wou^d have made many think, & more say, that every thing was thrown into the hands of another set of people. I have troubled your lordship with this little detail, only to justify myself from the least suspicion of negligence in obeying your commands.

“ I have heard with great concern, of the still unsettled state of both foreign & domestick affairs; & agree intirely with your lordship, that till a strong & right connection is formed at home, nothing can be done abroad. But I say it with sorrow as to myself, & with shame for other people, places only can (I see) form that connection. A certain degree of force *somewhere* can alone extort those places, & bring about the foreign measures necessary, in consequence of the connection formed by those places. What those foreign measures will or can be, God knows, but from the present situation & disposition of all those powers, who either are, or call themselves our allies, as well as from our own circumstances, the continuation of the war seems to me impossible.

“ Your lordship does me a great deal too much honour in thinking that my presence cou^d be of any use; tho' I am sensible of the contrary, I am doubly proud of your lordship's error, as it is the first I have ever known you

entertain, & as it can, therefore, only proceed from your partiality to

“ Your lordship’s
 “ Most obedient, humble servant,
 “ CHESTERFIELD.”

By the time the rebels had arrived at Stirling, a considerable body of the King’s forces was assembled at Edinburgh, under General Hawley. On the 17th of January, 1746, an encounter between the two armies took place at Falkirk, where the King’s troops were completely routed, and retired in confusion to Edinburgh.

But while the attempted revolution in the North was thus occupying the Chancellor’s attention, a revolution of another kind, by which he was immediately affected, was being attempted at home, and that by the person most concerned in the suppression of the former. The letter which follows, from Lord Chancellor Hardwicke to his eldest son, gives the first intimation of this extraordinary proceeding, but which is couched in such mysterious terms, that it is only explained by the note at the foot of it, which was added by Mr. Yorke.

*“ Powis House, Sunday Night,
 “ 12 o’clock.”**

“ DEAR MR. YORKE,—A resolution was taken last night of great consequence, which I intended to have communicated to you this evening, but was hindered by a meeting being appointed by the Duke of Newcastle, at my house, which I foresaw would last till near midnight. However, as I think it right that you should know something of it before it is put in execution, I wish you would come to my room behind the Chancery, to-morrow at 11 o’clock, & let some of my officers tell me when you are

* Hardwicke MSS., Wimpole. Date indorsed 9th Feb.

there, & I will come out of court, & say a few words to you. Yours most affectionately,

“HARDWICKE.”

The following is the note appended to this letter by Mr. Yorke :—

“N.B.—This resolution was for the ministry to resign their employments. It ended in a three days’ bustle & wonder. The resignations were stopped before my father’s share was carried into execution.”

Lord Chancellor Hardwicke wrote again to Mr. Yorke, a few days after this :—

“*Devonshire House, Feb. 12,*
*7 at Night.**”

“DEAR MR. YORKE,—The King sent a message this forenoon to Mr. Pelham, by Mr. Winnington, to let him know that his Majesty was determined to accept no more resignations, & intimating that he would have his old servants return back & accept their places. That he expected an answer to-morrow morning. I thought it necessary to acquaint you with this strange event. *Res magna agitur. Sentio amplius deliberandum.* The King’s honour—our own honour & security are to be consulted.

“Affectionately yours,

“HARDWICKE.”

The following extract from a letter of the Duke of Newcastle gives some particulars of the King’s conduct on this occasion, and of the cause of the resignation of the different members of the government.

“His Majesty was extremely irritated; loudly complaining of our conduct both at home and abroad; unwilling to give us any satisfaction, or any assurance of his countenance or support, and plainly showing a most determined predilection for the other party.

* Hardwicke MSS., Wimpole.

“ Upon this, we thought, in our duty to the King, and in justice to ourselves, the wisest and honestest part that we could take was to desire leave to resign our employments, and we determined that Lord Harrington should go first ; myself next, then my brother, and afterwards, my Lord Chancellor. Accordingly, my Lord Harrington went (as you know) on Monday the 10th, and resigned the seals. My Lord Bath went into the closet after him, and I after my Lord Bath. My Lord Pembroke, my brother, the Duke of Bedford, and my Lord Gower resigned the next day. The Chancellor was prevented from going till the Friday following, by the King’s going to the House of Lords.”*

The amusing and lively epistle which follows was written with reference to the event above alluded to, by Mr. Charles Yorke to his brother, Colonel Yorke.

“ *Saturday Night, 11 o’clock.*†

“ DEAR JOE,—I have only time to write five lines to tell you that P——‡ is obliged by your letter of the 8th, & has no time to thank you himself. Things are *in statu quo*. To speak in a metaphor: there was a set of very good dancers met together. Two troublesome men came from a corner of the room & interrupted them in all their movements ; insomuch that the set, who were entirely agreeable to the whole company, left their dancing & modestly withdrew. These two men determined to lead up a dance themselves, but they asked several to join with them in it, & nobody would help to compose it. In conclusion they were obliged to sit down again ; the old set were called in again, to the satisfaction of the company, & are now dancing a second time to the old tune.

“ In haste, yours, C.”

The news of the resignations had fled to Scotland. The letter which follows, and which was written before

* Coxe’s Pelham.

† Hardwicke MSS., Wimpole.

‡ The Chancellor, whom his sons familiarly called Patratius.

he had heard of their recall, by Colonel Yorke to Lord Hardwicke, shows how that of the Chancellor was received by the Duke of Cumberland, and the regard manifested on this occasion by the Prince to the subject of this memoir.

*“ Edinburgh, Feb^y 15th, 1747.**

“ Saturday Night.

“ MY LORD,—At a time when your lordship’s thoughts must be so occupied, I shou^d not have ventured to trouble you with my own impertinence. But it is in obedience to H. R. H.’s commands, who, on receiving the unexpected & surprizing news, sent for me into his room, & ordered me to write to your lordship this night in his name, to assure you of the regard & esteem he always has had, & shall have for you ; how much concerned he is at the loss the nation sustains in the person of your lordship, & that he shall always be happy to show your lordship all the marks of his friendship that lye in his power, with several other expressions of civility & affection.

“ I shall be silent on the cause of my writing this letter, because I am afraid I shou^d be apt to say more than is proper for me ; I shall therefore, after imploring the Divine assistance to save this sinking country, conclude with wishing your lordship health & happiness, either in place or out, & assuring you that nothing can alter the inviolable attachm^t with which I have the honour to be,

“ Your Lordship’s

“ Most obliged, dutiful son & servant,

“ JOSEPH YORKE.”

“ My humble duty to mama. Love & complim^s to all.

* Hardwicke MSS., Wimpole.

“ P.S.—Y^r lordship may be surprised to see a letter dated from hence, but H.R.H. came here to confer with the Prince of Hesse, & settle some other things, & returns to Perth to-morrow. The rebels have left Aberdeen, & seem more dispersed every day ; but perhaps they may think now of turning back.”

The next letter which Colonel Yorke despatched to Lord Hardwicke, was written directly after the news of the recall of the old ministry had reached Scotland, and exhibits yet more strongly than the preceding the high opinion entertained of the Chancellor and his colleagues. It is dated, “ Perth, February 17th, Monday night.”*

“ When I had the honour to write last to your lordship, it was not in the same temper of mind I am in now, as you may easily imagine ; the strange, unexpected event (to us) of the 10th, struck a damp upon the spirits of all here who wish well to the present government, that the as sudden reinstating the old ministry has not taken away ; melancholy & despair was seated on the countenances of almost everybody one met, that one could plainly see Jacobitism was triumphant by the sorrow of all honest Whiggs ; give me leave, after congratulating the nation, by order of H. R. H. (wth his particular complim^{ts} to you), on your lordship’s & the rest of the King’s friends being replaced, with that honour & weight which such a glorious step deserves, to wish in the zeal of my heart that the author of all these disturbances, Lord Granville, may meet the fate he deserves.

“ His Royal Highness at breakfast this morning, after letting us chew upon our letters very solemnly for some

* Hardwicke MSS., Wimpole.

time, & asking me what you said, amazed us with the news he had received just then, that everything was to remain *in statu quo*, & the enemy was discomfited: & at dinner he made us all drink a bumper to our old friends, & no more changes: as soon as I could be brought to believe it, I despatched an express to L^d Glenorchy, to inform of it at Taymouth, knowing that the first news might have reached him, & in all probability had, from Edinburgh, & the last I was sure had not; & being willing to prevent any ill impressions which such a piece of news at such a juncture in this country might make, with the advice of my master I wrote the letter.

“Gen^l Huske always makes his particular compliments to y^r lordship & Lady Yorke, whenever he knows the messenger goes out. He is pretty well, but the change of weather from snow & frost to rain affects his foot a little.”

The letter to Lord Chancellor Hardwicke from his son Colonel Yorke, which was next written, was dated at Montrose, on the 24th of February, to which place the Duke of Cumberland’s army had gone in pursuit of the rebels. In this letter Colonel Yorke mentions that it had been determined to advance the Hessian troops, which had been lately brought over for the support of the government, up to Stirling, Crief, and Perth, to keep the rebels from coming down again into the lowland country.

Charles Yorke, in a letter to his brother in Scotland, dated March 11th, tells him—

“I was much pleased with the notion of your having lain in Glamis Castle & dreamt of Lady Macbeth. As you seem to be in a way of visiting all parts of Scotland,

pray let me hear something of Dunsinane, & whether Birnam Wood is still there or not.”*

In a letter dated the 19th of March, and written from Aberdeen, Colonel Yorke gives the Lord Chancellor an account of a skirmish with the rebel forces which had taken place at Strath-boggie, and affords some general information respecting the state of the country.

The Chancellor still continued in London.

From Aberdeen the Duke of Cumberland proceeded with his forces to Nairn, where he received intelligence that the enemy had advanced from Inverness to Culloden, about nine miles from the royal army, with intention to give him battle. On the 16th of April the Duke decamped from Nairn early in the morning, and after a march of nine miles perceived the Highlanders drawn up in order of battle, to the number of 5000 men, in thirteen divisions, supplied with some pieces of artillery. The royal army was much more numerous, and was formed into three lines, disposed in excellent order. About one o’clock an engagement between them commenced.

The following interesting letter, giving the full particulars of the battle of Culloden, was written to his father, shortly after the event, by Colonel Yorke:—

“ *Camp of Inverness, April 18th, 1746.*†

“ MY LORD,—Lord Bury’s departure was so sudden after our arrival in this town, that I had only time to tell the good news & sign my name, without entering into particulars; & tho’ I take it for granted many better accounts than mine will reach your lordship’s

* Hardwicke MSS., Wimpole.

† Ibid.

hands, yet as a partaker in that glorious day of liberty, I can't help telling the story myself.

“ I wrote to your lordship from Nairn camp on the 15th, our hero's birthday, where we had halted in order to refresh our men after the fatigues of several long marches, & to make the proper dispositions for what might happen the next day, tho' many believed it wo^d have ended in nothing. His Royal Highness that evening, after having given his orders for the manner the army sho^d march the next morning, assembled the commanding officers of every regiment, told 'em of the possibility there was of coming to an action the next day with the rebels, the method he would have every one of them observe in leading up his regiment, & what he expected from them, & assured them of victory if they observed their orders.

“ The rebels, whom we knew to be what they call encamp'd (*i. e. sub Dio*) near Culloden, the President's House, in expectation of our marching towards Inverness that day, finding, on approach of night, that we did not advance as they expected, imagined that as it was a holyday with us for the Duke's birth, we should be all drunk in our camp, & fall an easy prey to their swords. Pleas'd with this idea, they put themselves in march to attack our camp in the night. Our scouts & patrols, that were advanced four miles from our camp, brought us intelligence that some of the rebels had come within 5 measured miles of our camp, but were all gone back ; and we found afterwards that the column which Lord George Murray led had lost its way in the dark, which had obliged them to return to Culloden in a good deal of hurry and confusion.

“ On the 16th, at 4 o'clock in the morning, H. R. H. began his march from the camp in 4 columns, 3 of foot

& 1 of cavalry, the artillery following the great road. About 5 miles from our camp, on an alarm given, by some of our light parties in the front, that detachments of the rebels were in sight, the Duke made the army form immediately in line of battle, which it did with that ease & alacrity as surprised every spectator, & gave the greatest hopes of future success. This alarm, however, proving false, the army was again reduced into columns & continued its march. A second alarm of the like nature, about 3 miles further, occasioned a second ranging the army, with equal skill & alertness.

“As we drew nearer Culloden, two or three honest persons, who had been sent for that purpose, returned, & informed the Duke that the rebels were formed with their right to the water of Nairn, & their left to the sea, having the parks (*i. e.* the grounds inclosed with stone walls) of Culloden in the rear of their left, intending, as the English army marched along the high road to Inverness, to take it in flank, or fall upon the head of its march; and the better to conceal their purpose, & lull us, if they could, into a fatal security, they, contrary to their usual custom, sent out no hussars nor people to reconnoitre us, in hopes that we, deceived by the quiet that reigned all about us, might at once fall into the snare they designed us. This information was enough to determine H. R. H. what method to take to disappoint their design, & make it turn to their own confusion. He with great skill & military genius changed in an instant the disposition of the march, & leaving the great Inverness road on the right, continued moving over the hills called Gladsmuir till we came within a mile & half of the enemy, when we drew up again in order of battle, & marched forward so formed towards the rebels. As we drew near, I observed this manœuvre

of ours had caused a good deal of confusion amongst them, & they seemed to incline more to the water of Nairn. This inclination of theirs being observed, our left continued stretching out that way too; & at the same time L^t Gen^l Hawley & M. Gen^l Bland, with 5 squadrons of dragoons, unperceived by them, crept along on the side of the descent to the river, in order to fall upon their flank if they sho^d, according to custom, endeavour to gain one of ours. This had, as will be seen after, the designed effect. When we were within 3 hundred yards of the rebels, they fired from the battery of 4 pieces of cannon which they had in their center, but with little or no effect. However, our artillery was immediately formed between the intervals of our battalions; at the same time the Duke, for fear the rebels might outflank us on their left, ordered up Pulteney's regiment & two squadrons of Kingston's from the reserve, & one squadron of Mark Kerr's from the left, to the front line, on the right of the Royal. When our cannon had fired about two rounds, I could plainly perceive that the rebels fluctuated extremely, & could not remain long in the position they were then in without running away or coming down upon us; & according as I thought, in two or three minutes they broke from the center in 3 large bodies, like wedges, & moved forward. At first they made a feint, as if they would come down upon our right, but seeing that wing so well cover'd, & imagining that they might surround the left because they saw no cavalry to cover it, two of these wedges bore down immediately upon Barrell's & Monro's regiments, which formed the left of the first line, & after firing very irregularly at a considerable distance, they rush'd furiously in upon 'em, thinking to carry down all before them, as they had done on former occasions:

however, they found themselves grossly mistaken, for tho' by the violence of the shock Barrell's regiment was a little staggered, yet M. Gen^l Huske, (who commanded the second line,) perceiving where the weight was felt, rode up to the regiment, & bidding the men push home with their bayonets, was so well obey'd by these brave fellows, that hundreds perish'd on their points. At the same instant, the rebels who came round the left of Barrell's, & in the pell-mell broke through the line, met their fate from the fire of Wolfe's & Ligonier's on the left of the second line. The broad swords succeeding so ill, the rebels turn'd their backs, & in flying were so well received by the cavalry under Hawley & Bland, who had broke down two dry stone walls, &, unperceived, had gained their rear, that a general route & slaughter ensued amongst them. To all this on the left I was an eye-witness ; for the Duke's piercing eye discerning how hard the left was pressed, he sent me thither to order M. Gen^l Huske to remedy it from the second line. In the meantime that wedge which was designed to fall on our right, after making 3 feints, as if they had been coming down upon us, in order to draw away our fire, seeing that the right kept shouldered with the greatest coolness, & the 3 squadrons were moving towards their flank, followed the example of their right wing & fled for it. Immediately the horse were in amongst 'em, & the lines of foot advanced with shouts of victory, & with the regularity of well disciplined troops.

“To describe the slaughter & confusion of the scoundrels requires a pen as much abler than mine as the arms that dealt death to the rebels were stronger ; but so glorious a ruin eye never saw before. The remembrance of former wrongs, the barbarity with which our prisoners had in general been used, & the glorious

desire of recovering lost reputation, infused such spirits in the breasts of all, that had not fear added wings to their feet, none would have escaped the edge of the sword.

“The Pretender, as soon as ever he saw how the day was likely to turn, instead of endeavouring to rally his people, or make the least stand, after being witness to the flight of the Lowlanders & French, who composed the second line, without their ever approaching us, with the few horse he had, galloped off for the mountains. M. G^l Bland pursued quite to Inverness, & there made prisoners of war a great number of the French, whilst Lord Ancram, with the squadrons of the right, pursued to the hills on the Nairn, & was followed for about 3 miles by the lines of foot, making a continual slaughter.

“Lord Kilmarnock, on foot by himself, fell on his face & begg’d for quarter, which was granted him with difficulty.

“They left on the field all their cannon, which were 12, several colors, & numbers of all sorts of arms. There were killed in the field about 2,000, besides the wounded, who crept away, many of whom have been since taken, & we have about 1,000 prisoners.

“Amongst their kill’d of note are Lord Strathallen, Col^l M^cLachlan, Col. Chisolm, Col. M^cIntosh, Col. Frazier, M^cDonald of Keppock, Lochiel, & numbers of others. On our side, (which will hardly be credited,) 44 only are kill’d, & about 250 wounded. Lord Robert Kerr, kill’d, with his spontoon in the heart of a rebel. Col. Rich, much wounded, and about 10 more officers killed & wounded. It were endless to enumerate the prisoners; besides your lordship will have exact accounts from H. R. H.

“Yesterday, a detachment of 600 was sent into the country of the McIntoshes, which had destroyed the goods & tackling of husbandry belonging to the rebels, & has brought in about 6 or 700 cattle & sheep. And this morning Brigadier Mordaunt went into Lord Lovat’s country to reduce that by fire & sword. Lord Cromertie & his son, with 100 men, are taken in Ross-shire, & the loyal people in the North are risen to knock the fugitives on the head. The Pretender is gone towards Lochaber, & I hope in a little time we shall clear the whole country.

“As I have not time to correct what I write, I am affraid your lordship will think me unintelligible, but I must beg you would excuse it, & make up what is wanting in mine from the more correct accounts of other people.

“I congratulate your lordship & the whole nation on this glorious beginning of the heroic Prince who leads us, & pray to the Almighty that he may continue to establish his father’s throne, & live the darling of a free people.

“I have the honor to be, with the highest respect,

“Your lordship’s most obliged dutiful son & servant,

“JOSEPH YORKE.”

“My humble duty to mama, whose spirits I hope this will raise. Love & compliments to all.”

A rough pen-and-ink sketch of Culloden, describing the position of the two armies, the situation of the country about, and pointing out where the hottest of the action was, accompanied this letter. Lord Chancellor Hardwicke sent both the letter and the sketch to the King, with the following note.*

* Hardwicke MSS., Wimpole.

“As the inclosed letter may possibly contain some minute particulars of the late glorious day, which your Majesty may not have met with in other accounts, I humbly beg to lay it at your Majesty's feet.

“I rather flatter myself to be pardoned by your Majesty for this trouble, as it is accompanied with a rough sketch of the action, drawn on the field of battle. May I presume to add my most dutiful & joyful congratulations on this great occasion; with my most ardent wishes that God Almighty may prosper all your Majesty's undertakings with equal, or, (if possible,) still greater success.

“HARDWICKE.”

“*April 26th 1746.*”

The King on returning them, addressed this reply * to Lord Hardwicke.

“I thank you, my lord, for this very pretty description of the battel, & for all the good wishes you have added to it.

“GEORGE R.”

Lord Chancellor Hardwicke wrote as follows to Col. Yorke, on the 26th of April, after informing him of his having communicated his letter to the King and “how much His Majesty was pleased with it.”

“Since that, His Majesty has had it again to peruse, & has said so much in its commendation to the Princess Amelie & the Duke of Newcastle, as well as to myself, that I sho^d be in danger of making you vain by relating it. He wants mightily to have it printed in some of the daily papers, tho' without a name; but upon this I demur at present for obvious reasons.”†

* Hardwicke MSS., Wimpole.

† Ibid.

In less than thirty minutes the rebel army was totally defeated, and the field covered with the slain. The road as far as Inverness was strewn with dead bodies ; and numbers of people who had come out of mere motives of curiosity to see the battle, were sacrificed to the undistinguishing vengeance of the victorious army. Twelve hundred rebels were killed on the field, and in the pursuit. Lord Kilmarnock, as mentioned by Col. Yorke, was taken ; and Lord Balmerino surrendered himself. Great barbarity was exercised by the soldiers on the wounded and dying who were left on the field. Some of the soldiers attired themselves in the dresses, and laced hats of the chieftains who were slain.

The Young Prince Pretender wandered about after the battle, which ruined all his hopes, a solitary fugitive among the isles and mountains for five months, sometimes in female attire and going under various disguises and names, until he at length escaped to France.

The news of this great and decisive victory, which at once restored tranquillity to the kingdom, and inspired confidence among all classes, was received in London on the 24th of April, with great demonstrations of joy. "At night were the most extraordinary illuminations ever known, with bonfires, a continual firing of guns, and ringing of bells, throughout this extensive metropolis." Both Houses of Parliament congratulated the King on the event ; voted their thanks to the Duke of Cumberland ; and the Commons added £25,000 per annum to his income.

The draughts of the motion for an address of the House of Lords to the King on the victory at Culloden, of the address itself, and of the motion of thanks to the Duke, are all in the handwriting of Lord Chancellor Hardwicke.

The following is Lord Chancellor Hardwicke's letter "to His Royal Highness the Duke of Cumberland, transmitting the resolution of the House of Lords for thanks to His R. H.," as taken from the draught in his lordship's handwriting.

"SIR,*—In pursuance of an order of the House of Lords, I have the honour to transmit to your Royal Highness a resolution, which their lordships unanimously came to yesterday, whereof the inclosed is a copy.

"Your Royal Highness will find in it the just sense of the House, fully expressed in their own words, to which I neither can, nor ought to add anything. But from myself, I beg leave to assure your R. H. that I take inexpressible pleasure in obeying the commands of the House on this joyful occasion, & to congratulate you in so complete & glorious a victory. Tho' I am sensible your R. H's. greatness of mind lays weight only on the eminent services you have done, & y^e great benefits resulting from them to His Majesty & your country, yet you must allow your faithful servants sincerely to rejoice in the immortal honour you have gained by your valour & conduct, & the whole tenor of your behaviour, as well previous to, as during this memorable action.

"Permit me, sir, to add my ardent wishes that your victory may be attended wth y^e most happy & extensive consequences; & y^t y^e Divine Providence may continue to preserve your R. H. as a public blessing to the nation, & as a glorious instrum^t under God of restoring y^e tranquility & security of these kingdoms, & establishing your royal father's throne.

* Hardwicke MSS., Wimpole.

“ I have the honour to be, with the most perfect respect & submission,

“ Sir,

“ Your R. H's. most dutiful, most faithful

“ & most devoted humble servant,

“ HARDWICKE, C.”

“ *London, April 29th, 1746.*”

Lord Chancellor Hardwicke wrote again to his son, Col. Yorke, and gave him an account of the mode in which the intelligence contained in his letter had been received in the metropolis:—

“ *Powis House, April 29th, 1746.**

“ DEAR JOE,—My time has been so taken up these two days with drawing motions, addresses, and resolutions of thanks, where they are most justly due, that I have barely time to thank you for your two letters. I never felt so much joy in my life as I did upon your billet by my L^d Bury; & I thought it incapable of any addition, till your next of the 18th inst., which proves the duke's success to be so far different from that of others, that instead of falling short of the first accounts, it grows upon our hands, & every day adds to the glory of it. Never were so great and universal rejoicings seen in this metropolis, & the good affections, zeal, & spirit of the people is raised beyond expression. And, indeed, there is reason for it; for this victory has in it all the circumstances one cou^d wish. The rout so total; the loss of our own officers & soldiers so small; their behaviour so gallant & firm; & the whole performed by our national troops alone, led on by a son of the King. God be praised for all this. How much we think ourselves in-

* Hardwicke MSS., Wimpole.

debted to H. R. Highness, the universal voice of the people, & the addresses & resolutions of both Houses of Parliam^t will testify, tho' not in a manner adequate to what we feel. I enclose you copies of the Lords' addresses, & of their resolution of thanks to the Duke, which I have the honour to transmit in form to His R. H. by this messenger. You will observe what is pointed at in one part of the address; & I doubt not it will end in an honourable settlement upon His R. H. When you see that of the Commons, you will find the words more explicit, as things of that nature must first move from them. The Duke may depend on the most zealous & active endeavours of his faithful servant.

“ I am much pleased with your ample & clear narrative of the action, which I fancy I understand much the better for your sketch, which is very intelligible. I hope the affair is over, & this villanous attempt crushed at once. Lord Justice Clerk adds a circumstance in his letter of Saturday last, that Lord John Drummond (as he is called) sent orders to the French officers and soldiers to surrender themselves, which looks as if he was convinced there was no further use of them. I had writ thus far, when your letter of the 23^d came in; & am glad to be confirmed by it in the opinion just mentioned. Orders are sent for the Hessians to embark immediately for Flanders, & it is submitted to the Duke's judgment whether the four battalions under Skelton may be spared. You know I am one that love to make this great game secure, & think it cannot be too secure, & therefore hope nothing will be done prematurely. I am as full of admiration of H. R. H.'s calmness & prudence in the preparatory steps to, as of his valour & conduct in, the battle. His patient waiting till he was quite prepared; his prudent enduring all the disagreeable circumstances thro' which

he has struggled to this victory, fill my mind with the highest idea of him.

“ You guessed right at the high spirits your good mother wou^d be in. She never was so elated in her life. We all rejoice much in your safety.

“ We shall now be proceeding by laws. This day a bill of attainder, with about fifty of y^e principal names, was brought into the House of Commons ; but I believe your two peers, that are in custody, will give us the trouble of a trial by the House of Peers.

“ All your friends here send you their kindest love, & most cordial congratulations. Your mother joins in her blessing with me, who am ever

“ Your most affectionate father,

“ HARDWICKE.”

A few days after this, as we learn by a letter from Mr. P. Yorke to Colonel Yorke, Lord Chancellor Hardwicke was allowed a little respite from the labours and anxieties with which he had been of late oppressed, and which had almost overwhelmed him.

“ My lord went to Wimpole this morning for a week, if nothing unforeseen calls him up sooner, w^{ch} I heartily wish may not, for I really think the great load of business w^{ch} lyes on his shoulders has fatigued him of late, more than usual ; & the melancholy situation of affairs, has made him more low-spirited than he is apt to be. I hope a few days’ quiet in the country will set him up again ; but if he is obliged to continue in town the whole summer, as was his lot last year, I dread the consequences of it to his health. It gives me some concern to reflect on the late hours he keeps at cabinets. He has been engaged of late, in consultation with the Scotch lawyers, ab^t a bill for regulating the Highlands, & preventing that

country from being for the future a nursery for rebellion. They say some scheme will be brought into Parliament soon after the holydays. For my part, I believe the Duke to be the best political Dr in this case.” *

We find a letter from Mr. Charles Yorke to his brother Joseph, written about this time, but without date, containing a piece of important intelligence about himself, with his own very modest sentiments upon the matter, which deserve to be recorded.

“I wish that I had any good stories to tell you, or the town furnished any news to entertain you with. One thing I can say as to myself, that I was this day called to the bar, very unequal to the task, and against my own opinion. However, I determined to submit, & there is an end. I will not trouble you with what I feel & apprehend for myself upon the subject; because I designed this letter merely to tell you how ardently I wish you all happiness; to express the love of your friends to you, & to say, *valetudinem cura diligenter*.” †

In one of Mr. P. Yorke's letters to Colonel Yorke, dated a little before the preceding one, he tells him—

“Pitt seems at present the object of satirical squibs. There is a print & a ballad out against him already. The first is the D^{ss} of M——'s ‡ ghost appearing to reproach him for his inconsistent conduct. The second is entitled, ‘The Unembarrassed Countenance,’ alluding to an expression of his in the House.” §

A letter from Mr. Andrew Fletcher, to the Duke of Newcastle, dated “Edinburgh, 13th May, 1746,” || gives us some account of the condition at this time of the

* Hardwicke MSS., Wimpole.

† Hardwicke MSS., Wimpole.

‡ Duchess of Marlborough.

§ Ibid.

|| Ibid.

unfortunate young Prince, who had been the cause of all the commotion and outbreak recorded in the present chapter ; and also respecting the disposal of one of the chief of his unfortunate followers.

“ Beef, & that very poor, is the only support that the Pretender’s son and company have had since they came to that country. They got thirty bolls of meal from Kenloch Moydart’s house, which lay there, since August, & is all the meal they have at Arisaig.

“ I had orders from His Royal Highness to put the Marquess of Tullibairden aboard of the *Eltham*, man-of-war, which was done this night ; it was good for him he had a strong guard to defend him against the people of Glasgow, who were greatly exasperated at seeing him. He did not pass thro’ this city, but was carried directly to Leith, where the populace were like to be troublesome to him, had not a strong guard protected him.”

Thus ended, by one decisive stroke, this great and adventurous effort of the unfortunate exiled Prince ; and with it fell also all the hopes on which he had so long been relying for the recovery of dominions which he considered to be his own.

Two grand and fatal mistakes seem to have been made by the Prince Pretender in the conduct of this enterprize. The first of them was, the neglect to summon his forces together, and to advance to London, before the Duke of Cumberland’s army arrived in England. The other was, the retreat of the Highland army from Derby, instead of marching on to the metropolis. Indeed, it was most ill-judged to attempt to invade England without being prepared and resolved to prosecute the design to the full. It does not appear that the young adventurer met with any insurmountable obstacles during his progress, or

such as could not or ought not to have been looked for ; and the time fixed upon for the invasion was certainly most favourable for such a scheme, if the advantages which a juncture of circumstances then afforded had been properly availed of.

If the reception of the young Pretender in England was less cordial than he might have expected, yet, on the other hand, the opposition he experienced, either from the government or from the inhabitants of the towns he passed through, was also much less than might reasonably have been anticipated. Carlisle surrendered to him with very little trouble, and a valuable prize fell into his hands almost without a contest on the capture of that city. Perhaps the distinguishing characteristic of the feeling with which he was regarded by the generality of the people in England was that of indifference. They may have hated the reigning monarch. But a revolution, with all its train of evils and disquietudes, they hated more ; and the reminiscences of the reign of the last of the Stuarts, which were current among the people, did not lead them to hope for any extraordinary benefits by a change from the present to the former dynasty. As it was, therefore, the mass of the people looked on with apathy ; they neither opposed nor supported the object of the rebels. Curiosity seemed to be the main feeling excited by the approach of the invading army. The men crowded together to gaze on the uncouth, unaccustomed spectacle presented by the Highlanders ; the women stared at their strange dress ; and the children cried, when they were told of their cannabalian propensities. Indifference only, with regard to the success of the enterprise, manifested itself in the nation ; though some, of course, whose principles or whose position led them

to take a lively interest in favour of the reigning family, displayed a becoming activity and zeal on such an occasion. But this general unconcern, to one who, as in the case of Prince Charles Edward, expected nothing but enthusiasm on his behalf to be everywhere displayed, and to be hailed as a deliverer, was almost as disheartening as downright opposition or repugnance would have been. The contrast, moreover, to the feeling that had been exhibited in Scotland in the same cause, must have made it more apparent and painful.

Had the rebel army, instead of retreating from Derby northward, advanced at once to London, what would have been the result? High authorities are divided in opinion on this point. That many, who were all along looked upon as the supporters of government, would have then at once declared for the Prince Pretender, there can be no doubt; and it is not improbable that a portion of the army, at least, might have been found favourable to him. The mass of the population would have probably displayed the same indifference as to the termination of the contest, as those in the provinces exhibited; though they might be safely relied on to afford their hearty cheers to whichever party proved victorious in the issue. A battle might have taken place, or the metropolis might have been secured at once without. Had the Duke of Cumberland come up to intercept the army of the Pretender on its march to London, it is by no means sure that the same success would have attended his Royal Highness's arms as he met with at Culloden. For, in the first place, the forces of the Pretender had suffered considerably in their flight, and were in much worse condition than when they left Derby; besides which, the dispiriting effects of a retreat are of the greatest disadvantage. On the other hand,

they would, if on their march to London, have been in full prospect of their highest hopes. Success would have attended them up to that period in every encounter, and they would have been an advancing and a victorious instead of a retiring and discomfited army. But even their first encounter after their retreat, that at Falkirk, was a successful one. A victory on their approach to London must have inevitably secured them the capital; and aid from France would soon have extended this into a conquest of the kingdom. The many leading personages of rank and influence that would then have openly declared for the new sovereign would have secured his authority at once, independent of the numbers which always swell the ranks of a victorious party.

On the other hand, a defeat of the rebel army in the south of England would inevitably, as they foresaw, have proved the entire destruction of their forces; and it cannot be denied that, though beaten so entirely at Culloden, they possessed much greater advantages in fighting in their own country, amidst their accustomed fastnesses and strongholds, and surrounded by inhabitants favourable to their cause, than in a country to which they were strangers, and the inhabitants of which were at least not friendly to them. In the former case, the disadvantages under which they lay, in inequality of numbers to the King's army, want of discipline and of military experience, were much less felt than they would have been while fighting in an open country. The army of the Duke of Cumberland was, indeed, much larger than that of the rebels, and infinitely better disciplined, with all the experience of a long military campaign in Flanders; and, what was of great importance, would have been within a short distance of its source of supply,

while the Highland army was far removed from any aid of this sort.

Some volunteer regiments had also been raised by the government for the occasion, one of which was stationed to meet the rebels at Finchley. Some doubts, however, as to the efficiency of these troops have been started, by the rumour that several of the persons intrusted with high command were in reality partisans of the Pretender, who only waited for a favourable opportunity to declare their sentiments, and who would have endeavoured to induce their followers to join the ranks of the Highland army.

After all, however, this terrific force, by which England itself was thus daringly invaded, was but an armed mob, or at best but an undisciplined, perhaps semi-barbarian band. It was essentially, indeed, in all points a mob, as contradistinguished from a regular army of soldiers. It possessed all the main features of a mob, in want of discipline in the subordinates, and want of unity of purpose in the leaders, which mark the great difference between a mere armed assemblage and a trained military regiment. The depredations on the peasantry, (though not peculiar to irregular troops,) and the wild mode in which their march was conducted, serve as much to obtain for them this character as the rude and undisciplined condition of the men.

On the other hand, nothing shows the strength of the party so fully as the fact of a mere armed mob being able to effect so much, notwithstanding they were opposed by regular troops, and the whole force that the government could bring against them, which they not only resisted, but more than once entirely routed.

But, if we may judge from the letters already quoted,

there does not appear—at any rate, until a late period of their proceedings—to have been any fear among the rulers for the loss of the kingdom. Their only apprehensions were as to their ability to put an end to the turmoil at once. And their later more serious alarms were of the French troops landing on our shores, by which alone did they consider that danger could arise. How ignorant, however, they were of the real nature of the rebellion, of its origin, and of the extent to which it was supported, their whole conduct showed. Lord Lovat, a man of great sagacity and experience, and of extensive knowledge of the feeling of the people, after long observation and deliberation, had ventured to stake his all on the issue of it; and France and Spain did not hesitate to become partisans in the same cause.

Nevertheless, the Prince Pretender had nothing either of the mind or feeling of the English nation on his side, so far, at least, as these were openly displayed. In Scotland it was otherwise, and the prejudice of the people was there strongly exhibited in favour of their own blood. The name of Stuart, and the desire for an independent sovereignty, and for the repeal of the union with England, allured multitudes to the Pretender's standard.

Probably the wisest policy for the rebel party would have been to have remained content with the conquest of Scotland; and, with the aid of France and Spain, to have continued entire masters of that kingdom, without attempting to obtain England also, or at any rate until they had established a regular and firm government there. In that case it would have been a difficult matter to have driven them out of Scotland, though, perhaps, they might have been prevented from forming any settled authority there. Under these circumstances

it must have been hazardous to send into Scotland troops from England in sufficient numbers to encounter them, as the south of England and the metropolis would then have been left unguarded, and in a great measure exposed to the danger of an invasion from abroad. Ireland, too, would, ere long, have played her part in that great scene.

It may seem, however, in some respects extraordinary that the attempt of Prince Charles Edward was not successful, having the advantages he possessed, aided as he was, and with the extreme dissatisfaction which he found existing as to the general condition of affairs in this country, and, above all, with the conduct of the reigning monarch. An opportunity, and a state of things more favourable for his enterprise, could scarcely have occurred. But the failure of his efforts under all these circumstances proves in an eminent degree how deep-rooted was the dread of a repetition of the enormities which led to the expulsion of James the Second from the throne, and which the people were led to believe would be perpetrated under another Popish monarch. A feeling of this sort would be more intense in the generation which followed, than in that which witnessed it, as they would hear only of the tyranny which provoked his dismissal. The points favourable to him would be soon forgotten after the Revolution party became triumphant as the champions of civil and religious liberty; and during their childhood the minds of the people, by the accounts afforded of these events, which would be probably not a little exaggerated to give point to the narrative, would have been well trained to hatred of Popish tyranny and arbitrary power. In addition to this, most of the personal attachment to the late reigning family had now become obliterated, from their long absence. The

general insecurity of property, which a revolution must ever occasion, would operate strongly to induce many of wealth and influence to oppose it to the uttermost. That in 1688, being caused by the abdication of the reigning sovereign, the main obstacle to impede its progress was removed.

But unpopular as was the personal character of George the Second, it does not appear that that of the young Prince Pretender was altogether such as to inspire full esteem and confidence among his followers. As regards his conduct to Lord Lovat, and others of his adherents, he does not seem to have always acted straightforwardly. Perhaps he inwardly distrusted this veteran traitor to both interests; at any rate, he must have heartily contemned him.

The fairest conclusion, on the whole, at which we can arrive, as to what the probable success of the Prince Pretender would have been, had he pursued his march to London, instead of retreating back from Derby, is, that he would have reached it without encountering the army of the Duke of Cumberland, whose line had been marching northward, so as to allow the rebels to slip by him, and who does not appear to have had any precise information as to their position or movements; besides which, the troops of the Pretender marched much quicker than those under the Duke of Cumberland, as shown by their progress towards the North. In this case, therefore, the Pretender's army might have entered the metropolis without any serious resistance, or such as they could have overcome. London once gained, the kingdom would have been an easy conquest. A well-penned proclamation, and the distribution of honours and promises among different classes, would have done much to secure the position of the conqueror, independent of

the aid he would very soon have received from foreign powers.

How near the attainment of his object the Prince Pretender really was, Lord Chancellor Hardwicke himself,—who for a long period during the progress of the rebellion seemed to regard it only as a mere local tumult,—admitted to the full on a subsequent occasion.*

Had the Chevalier marched from Derby to London, there can be little doubt he would soon have been aided by succours from France, which had probably been delayed by the resistance that they would have had to encounter while the army of King George held possession of the capital, and the dread, which the French soldiery always had of a hostile invasion of England.

Some doubts may, indeed, be entertained, whether the French ever had any serious intention of invading England on behalf of the Pretender, or whether they were quite sincere in their professions of desiring to aid him in his attempts, except so far as this suited with their views in causing a diversion of our forces from the Netherlands. Indeed, the treachery and bad faith of France at that period, both towards this country when at peace with it, and also towards the Pretender and his party, when under engagements to aid them, appear to have been so egregious, that their double infidelity amounted in practice to a single observance of good faith, and thus matters were brought to something like an equitable termination at last. Hence though England was deceived by the secret alliance of France with the Pretender, an atonement was in due time made for this, by his own betrayal, when he in turn found himself abandoned in the quarter where he had most relied for succour.

* Speech on Mutiny Bill, c. 10, *post*.

Had the rebels encountered the army of the Duke of Cumberland ere they reached London, the issue of the conflict, under all the circumstances, would have been doubtful, though the chances appear to have been much in favour of the Duke. The struggle must have been a tremendous one, corresponding with the interests which both would be contending for. If the Duke was fighting for the actual safety of his country, and his father's crown, the Prince Pretender would be fighting both for his father's throne and his own, and also for his life. Defeat to him and to his forces must have ended in certain ruin to both, so that the desperation of their position would have infused the utmost vigour into their efforts. As it was, however, their adventures could hardly have terminated more disastrously than they did with the defeat at Culloden.

Another question has been raised, apparently not more easy to solve than the former one. Would Prince Charles Edward, or his father, have kept the throne, had they obtained it on this occasion; or would they not, by some act of tyranny or folly have provoked another rebellion? Lord Mahon is of opinion that this would have been the result of the restoration of the Stuarts.* Infatuation, however, must have its limits, in the most obdurate; and it is not impossible that even a Stuart might at last learn wisdom by experience. The fact of the Young Pretender afterwards renouncing the Roman Catholic religion, and of his loose temporizing conduct when he exclaimed, "he would not lose three kingdoms for a mass," lead us to infer that he would not have been likely to peril the safety of his throne by any very severe scruples on the score of his religion, which, as Archbishop Herring seems to intimate, had but little influence upon his conduct. Besides this, the restored family could hardly have been

* Hist. of England.

ingenious enough to have gained for themselves more personal unpopularity than fell to the lot of George the Second. The subjects of this sovereign might be very unwilling to rebel against his authority, but it is most improbable that they would ever have been induced to raise a rebellion in his favour.

The annihilation of the hopes of the Pretender must have been in one respect a serious inconvenience to the government of this period, as, whenever any extraordinary measures were to be resorted to, or any additional taxes to be put on, the rumour of the Pretender's efforts formed a ready and most plausible pretext for their imposition. If new restrictions were thought expedient, he was sure to be discovered to be on the move. If fresh forces were to be raised, it was quite certain that the Pretender was preparing to invade us. If the people were slack in their support of the government, they were told that their liberties were in jeopardy by the approach of the Popish tyrant!

Be this, however, as it may, an absolute termination was now given to the unfortunate and disastrous Rebellion of 1745, by which England had been threatened with intestine war, the flower of Scotland was swept away, and the destiny of the crown of the three kingdoms, for a while rendered dependant on the mere chances of events.

One very gratifying and satisfactory reflection arises, in comparing the year "'45," of the last century, and those immediately preceding, with the corresponding period in our own. While in the former, the history of Europe, and of Great Britain more especially, is made up of wars, and bloodshed, and invasions, and intestine commotions, sovereigns and rulers plotting against each other, and aiding the most reckless of their subjects in introducing anarchy and confusion into each other's

dominions;—we of this country, instead of being in dread of hostile invasions by foreign powers, are now attached to them by friendly alliances, and the still stronger ties of commercial intercourse. Scotland, which in the period alluded to was endeavouring to break the bonds by which she had been united to us, has now, by the power of steam and the invention of railroads, and advancing under the grand legislative measures for its regulation, propounded by Lord Hardwicke, formed a real and essential union with England, and mutual intercourse between the two capitals has become daily attainable. And while the period of our history which we have lately been considering saw on the throne of these realms a monarch whose affections were all in a foreign land, and whose absence there was availed of by his enemies, aided by the machinations of France, to invade his territories;—the corresponding periods in the century now passing away are distinguished, not by foreign invasions, but by interchanges of friendly visits between the monarch of France and the Queen of Great Britain, whose patriotic devotion to the interests of her people is exhibited by the important measures originating with, and undertaken by herself, for conciliating the goodwill of foreign powers; and whose constant and enlightened policy it has ever been,—in accordance alike with the virtues of her sex, and her wisdom as a sovereign,—to promote peace, and friendly disposition towards this country, throughout every nation of Europe.

Fortunately for the interests of the legal profession, whose loyalty at this time has been recorded in the foregoing pages, the maxim propounded by a great advocate of antiquity—*silent leges inter arma*—was found

not to be applicable as regarded the cessation of lawsuits, or of the proceedings in the great equity court over which Lord Hardwicke presided. Even the approach of the rebels to the metropolis, though it materially conduced to paralyze many commercial operations, failed to affect the sterner nerves of the lawyers, or to abate the fierce wranglings in which they continued to engage, as though no danger threatened. And it does not appear by Lord Chancellor Hardwicke's note books, that any interruption whatever was caused to his sittings, throughout this eventful and critical period.

A case of leading interest, to which I would now call the reader's attention, had occupied the mind of the Chancellor since we last reverted to this branch of our subject. It was entitled *Ex parte Barnsley*. The mode in which Lord Chancellor Hardwicke lays down the principle as to what constitutes lunacy, and what incapacity and weakness of mind, and the proofs required to substantiate each of these; and the constitutional sentiments which he expresses while pronouncing his decision, render this case one of great value and interest.

Lord Hardwicke here maintains to the full the character which on other and very different occasions he had earned for himself, of being scrupulous to an extreme, though an officer of the crown, of extending in any way its prerogatives so as to endanger the liberty of the subject. A very full and ample report of this judgment is given in the printed reports of it.

The case itself came on as a petition in lunacy. The inquisition had been issued "to inquire whether William Barnsley is a lunatick, or enjoys lucid intervals, so that he is not sufficient for the government of himself and his affairs." The return of the inquest was "that the said William Barnsley at the time of taking this inquisi-

tion, is, from the weakness of his mind, incapable of governing himself and his lands and tenements, and has been so from the 8th of April, 1737, and upwards, but how and in what manner the said Mr. Barnsley became so, we know not."

The petition above mentioned was preferred to quash the inquisition as being an illegal and a void return.

The Attorney-General for the petition contended there are four grounds of lunacy ; sickness, grief, accident, and drunkenness, none of which were mentioned in the return. In one case, the jury upon an inquisition found that the subject of inquiry, by his appearance, was not always in his senses as other men, and that it arose from fear and provocation. This was quashed.

Several other cases of informal returns to inquisitions, which were contended to be similar to the present, were cited.

Mr. Solicitor-General, on the other side, argued that the return was agreeable to many precedents, and agreeable also to reason, and contended that a commission should issue upon this inquisition. The order was made upon the 28th of April last ; the attendance upon the inquisition was by council on both sides, it took up seven days, and the jury were unanimous. In the notion of the old law and writs, one of which is to inquire *de idiotá*, and the other *de lunatico*, he must be found one of these.

"*Lord Chancellor.*—Though I am desirous of maintaining the prerogative of the Crown in its just and proper limits, yet, at the same time, I must have a care of making a precedent on the records of the court ; or of extending the authority of the Crown, so as to restrain the liberty of the subject, and his power over his own person and estate, further than the law will allow. Notwithstanding what has been said of the change of the law, I think the prerogative of the Crown, and the rule of the law, is still the same, and cannot be altered but by act of Par-

liament ; for it is only the form of returns that is changed by this court. The question is, whether here is such a finding returned, as will intitle this court to take the care upon them of Mr. Barnsley's person and estate? Now it is certain, and is admitted, that this is a departure from the direction of the commission, which is to inquire whether he is a lunatick, or with lucid intervals, so that, &c. But though the return differs in words, yet, if there are equipollent words, it will not be such an objection as will quash the inquisition. For it is not a variance in the words, but in the sense and meaning, that will quash it.

“ Possibly the law may be too strict, and it might be useful in some cases that a curator or tutor should be set over prodigal or weak persons, as in the civil law. There are various degrees of weakness and strength of mind, from various causes. There may be a weakness of mind that may render a man incapable of governing himself from violence of passion, and from vice and extravagancies, and yet not sufficient, under the rule of law and the constitutions of this country, to direct a commission.

“ Being *non compos*, of unsound mind, are certain terms in law, and import a total deprivation of sense ; but weakness does not carry this idea along with it ; but courts of law understand what is meant by *non compos*, or insane, as they are words of a determinate signification. My Lord Coke's definition is, that they are persons of non sane memory.

“ *Non compos mentis* is used in the statute of limitations, so that it is legitimated now under several acts of Parliament. Several words are legitimated by act of Parliament to a particular sense, which before might bear a different meaning. I remember a case before the Court of Queen's Bench, when I was Attorney-General, upon a pardon, where it was directed he should give security *nostris justiciariis de banco*. Now this is the title of the Court of Common Pleas. The case stood over upon this point, and Lord Chief Justice Eyre found in Magna Charta, that the Court of King's Bench were called justices of our bench, and this was held to have so legitimated the word, that the pardon upon this was adjudged to be a good one. Lunatick is a technical word, coined in more ignorant times, as imagining these persons were affected by the moon ; but discovered by philosophy and ingenious men, that it is entirely owing to a defect of the organs of the body.”*

The inquisition was ordered to be quashed.

* Atkyns's Reports.

CHAPTER IX.

1746—1747.

PREPARATIONS FOR THE TRIAL OF THE REBEL PRISONERS—TRIAL OF LORDS KILMARNOCK, CROMARTIE AND BALMERINO—EXECUTION OF LORDS KILMARNOCK AND BALMERINO—GOVERNMENT MEASURES RESPECTING SCOTLAND—CORRESPONDENCE OF THE LORD CHANCELLOR—TRIAL OF LORD LOVAT—HERETABLE JURISDICTION BILL—EXECUTION OF LORD LOVAT—JUDGMENT OF LORD CHANCELLOR HARDWICKE IN *LAWLEY V. HOOPER*.

ALTHOUGH, by the suppression of the rebellion, tranquillity was at length restored to Great Britain, yet, to Lord Chancellor Hardwicke, this event not only brought no season of repose, but his energies were more than ever called forth; and, in relation to his own profession, duties of the most important nature devolved upon him. He had now to adopt measures with respect to the trial of the rebel prisoners, with which the gaols in many parts of the country were crowded; and several persons of high rank and station were, at this time, in custody, on charges connected with the late outbreak, by which their lives were liable to be affected.

If his promotion to the Bench, as Lord Chief Justice of England, was important to Lord Hardwicke, as serving to develope the great judicial qualities which his mind possessed; and if his advancement to the Chancery was of yet higher consequence, as contributing to evince his extraordinary abilities as a jurist and an administrator of justice;—the very important, painful, and onerous task, in which he was now about to engage, in su-

perintending and directing the progress of proceedings of state importance, and presiding in the first judicial assembly of this mighty nation, on trials in cases of life and death, of persons of the first rank and quality, served in the fullest degree to exhibit those various capacities with which he was adorned, which fitted him to obtain celebrity as a criminal as well as civil judge, of the highest order, and a constitutional lawyer of the noblest rank.

A letter from Mr. P. Yorke to his brother Colonel Yorke, dated the 17th of May, 1746, affords a brief account of the proceedings in Parliament at this time, connected with the late rebellion :—

“ The Parliament is adjourned ’till Monday se’nnight. The last thing we did was to make a proper return to his R. Highness for his eminent services. There was no direct opposition to it from anybody, the House receiving the motion, w^{ch} was made by Mr. Pelham, with general satisfaction ; only Lord Strange proposed an amendment to express the reason of the vote, that so large a revenue for the 2nd son of the Crown might not be drawn into precedent, when there was not the same reason to induce the House to come into it. This was agreed to. The preamble to the Act will be drawn by Mr. Doddington, tho’ I know others offered themselves who wo^d have done it better.

* * * * *

“ The Bill of Attainder is passed both Houses. A day is given to those included in it to take their tryals, (I think six weeks). If they do not come in, they incur the penalties of the Act. Some of the witnesses were true Scotch, and would scarce speak out. It is high time the prisons were exonerated of the vast number they contain, & y^t y^c excecutions were got over before

this spirit of resentment cools. I assure you a contrary one begins already to show itself.

“The rebel lords will be tryed by indictments. I doubt the great offenders will escape; but if they c^d be met wth by y^e way, & tell to y^e bottom, t’w^d be best of all. ’Tis, I am sure, no breach of humanity to wish the extirpation of villains who have brought such a scence of distress on their country, and all Europe besides.”*

Mr. Charles Yorke, in a letter to Colonel Yorke, dated June 10th, gives some particulars of interest respecting certain of the prisoners of rank, who were then in London; as also with regard to the political measures in contemplation:—

“You have sent up some personages here of late, who in their several ways have made some noise. The Prince of Hesse, & the rebel lords. The former at Ranelagh, the opera, & St. James’s; the latter biting their chains in the Tower. They are soon to be tried, upon indictment, by their peers; and, it is said, in the House of Lords, & not in Westminster Hall. Lord Kilmarnock talks not only with composure, but levity of his situation; of the motives that engaged him in the rebellion, inconsistently with the principles and conduct of his past life. And of the battle of Culloden he says that, tho’ on the morning of the battle he had but three guineas in his pocket, he would have laid a thousand that his friends had defeated the English army. It is imagined that Kilmarnock & Balmerino will plead guilty. Cromartie speaks with more reserve, & in a tone of complaint, as having been thus treated on no reasonable grounds. The Speaker is desirous that the proceeding should be in Par-

* Hardwicke MSS., Wimpole.

liament, by impeachment. He thinks the greatness of the occasion, & dignity of the House would set off one another in this thing extremely. But I don't find that his reasoning is liked. For, if it is to be laid down that, sitting the Parliament, no peer is to be indicted, & tried upon that indictment for high treason, but in order to come at his offence, the proceedings must be by impeachment,—it may often happen that by the delay & artifice of parliamentary proceedings in that way, justice may be eluded. The proceeding by indictment is easier & simpler, & leaves no room for faction & debate.

“The houses are likely to sit still longer, in order to do something towards the reformation of the country where you are. It is a work of great extent, & will require time, sense, & honesty to perfect it. Whatever is to be done as to the tenures, jurisd^{ns}, arms, dress, names of clans, meeting houses, forfeited estates, & commiss^{rs} to visit the Highlands, ought to be done immediately, with^t leaving it to another session, by which time those who disapprove of it may be prepared with arguments & parties to oppose it.

“The Highlands, (by acc^t lately come out of Scotland,) seem to have been plundering their own cause, or to have designed it, by dividing the sum of money that was brought for the Pretender in the French ships. The clans all along seem to have carried things with an high hand, & to have insisted on their own points both of advice & interest, separate from the advice of the chief counsellors to the Pretender, & perhaps in some instances with^t regard to his interest

“It was the opinion of your discreet friends here not to publish your acc^t of y^e battle, tho' it well deserv'd it.”*

* Hardwicke MSS., Wimpole.

The various rebel prisoners who were taken in arms during the rebellion, were now awaiting their trials in different parts of the country, for which purpose a special commission was directed to the judges, relative to which a letter was addressed by Lord Chancellor Hardwicke to Lord Chief Justice Lee, containing full directions as to the course to be pursued as regarded the arrangement of the circuits, and the time fixed for these proceedings.

To his son, Colonel Yorke, Lord Chancellor Hardwicke wrote the following letter, in which he referred to the different matters connected with the suppression of the rebellion which were then in agitation.

“ Powis House, June 20th, 1746. ”*

“ DEAR JOE,—I know you don’t expect me to be a regular correspondent, & therefore will be content with my approbation, & thanks for the several kind letters which I have received from you since my last. Your intelligence has given me much pleasure, & I hope your brothers have followed my directions in letting you know it. His R. H. has pursued his victory with great wisdom, constancy, & firmness ; & I desire you will lay me at his feet, with repeated tenders of my humble duty & faithful attachment. He has had a substantial proof of the sense of the Parliam^t, & of the nation, in the unanimous settlement made upon him, which I wish were adequate to H. R. H.’s merit, & I pray may continue in his line as long as the memory & history of that merit must continue among Britons & Protestants. Pray take an occasion to congratulate him in my name upon it.

“ I learn by Lord Glenorchy that he had rec^{vd} an

* Hardwicke MSS., Wimpole.

intelligence from you that old Lovat was taken. Having heard no more of it, I fear that was not true, for I heartily wish that wicked old fox were trapped. The steel trap is proper for such vermin. 'Tis strange the fate of the young Pretender shou^d be so uncertain. 'Tis supposed here that he got off from the coast before the engagement with the two French ships, but it is surprising that nothing has been heard of him since.

"I rejoice that the terror of the Duke & his army has induced so many of the clans to bring in & surrender their arms. Not that I can persuade myself they bring in all, for I believe they have different sets; but, however, it will have a good effect, especially considering the method H. R. H. has taken in the doing of it, which I was much pleased with the account of in your letter to your brother. Added to this, nothing can have a better effect upon them than the method H. R. H. is taking to convince them that their fastnesses, so long boasted to be inaccessible to regular troops, are in truth accessible, & that they are comecatable.

"We are busy here in bringing things to some maturity for pursuing the Duke's success by acts of the legislature. A bill was yesterday presented to the House of Lords by the Duke of Argyle, ab^t w^{ch} I had taken a deal of pains, for the more effectual suppression of the non-juring meeting-houses. I think, if executed, it will answer the purpose:—1st, for more effectually disarming the Highlands, with many additional clauses & provisions beyond the former acts, & particularly for instituting continued repeated visitations of them; 2^d, for abolishing their dress, & the names of some of the clans; 3^d, for abrogating some of the most oppressive & inconvenient parts of the tenures, superiorities, & of the jurisdict^{ions} in the hands of subjects. About this

latter there is much difference of opinion, & it is not quite settled, tho' a bill is drawn. We shall endeavour to bring it as near to his R. R. H.'s sense of things as possible. I am convinced some effectual measures of this kind are absolutely necessary."

A rumour was at this period current that Lord Hardwicke was about to be advanced to an earldom. Horace Walpole, in a letter to Mr. G. Montagu, dated June 24, 1746, says:—"They talk of new earls, Lord Chancellor, &c." Some, indeed, were created at this time. Whether the offer of this honour was now made to the Lord Chancellor does not appear. There is no reference to the subject among his letters or papers.

Lord Chancellor Hardwicke was appointed to preside as Lord High Steward, in the House of Lords, on the occasion of the trial of the Earls of Kilmarnock and Cromartie, and Lord Balmerino.

At eight in the morning of July 28th, the judges in their robes, with Garter King of Arms, the Usher of the Black Rod, and the Serjeant at Arms, waited on Lord Hardwicke as Lord High Steward, at Powis House, in Great Ormonde-street, after which they all went in a grand procession to Westminster Hall. The rebel peers were carried there from the Tower, strongly guarded.

"Three parts of Westminster Hall," says Horace Walpole, "were inclosed with galleries and hung with scarlet, and the whole ceremony was conducted with the most awful solemnity and decency. No part of the royal family was there, which was a proper regard to the unhappy men who were to become their victims. One hundred and thirty-nine lords were present. I had armed myself with all the resolution I could with the thought of the prisoners' crimes, and of the danger past, and was assisted by the sight of the Marquis of Lothian, in weepers for his son, who fell at Culloden; but the first appearance of the prisoners shocked me, their behaviour melted me.

"The two earls pleaded guilty, and prayed for mercy; but the Lord

Balmerino made an objection upon his being styled in the indictment, Arthur Lord Balmerino, late of the city of Carlisle; and to his being charged with his being present at the taking of Carlisle; whereas, at that time, he was not within twelve miles of it. Upon this, the prosecutors for the crown went into their evidence, and proved that he commanded a troop of horse under Charles, and that he was seen entering Carlisle several times at their head. It likewise appeared that he attended the rebels as captain of the same troop in all the marches through England; and that he was at the battle of Falkirk, and marched northward with them. Upon this evidence the opinion of the judges was taken, which was, 'We are of opinion, that it is not necessary to prove the overt act to be committed on the particular day laid in the indictment; but as evidence may be given of an overt act before the day, so it may be after the day specified in the indictment; for the day laid is circumstance and form only, and not material in point of proof; and this is the known constant course of proceedings on trials.' Upon this opinion being delivered, his lordship, in a very handsome manner, acquiesced, and the peers who were present, to the number of 135, found him unanimously guilty of the indictment. On sentence being passed, the two earls, who had pleaded guilty, made most affecting speeches, that of Cromartie being looked upon as a finished piece of eloquence; acknowledging their guilt, and imploring the intercession of their peers with His Majesty for mercy. Lord Balmerino offered a feint plea in arrest of judgment, upon which he was assigned council; but, being informed it was frivolous, he withdrew the same, and begged their lordships' intercession with His Majesty for mercy, and sentence of death was pronounced upon all three by the Lord High Steward." *

Lord Hardwicke on this occasion observed to the unfortunate prisoners that the beginnings of the rebellion were so weak and unpromising, as to be capable of inducing none but the most infected and willing minds to join in so desperate an enterprize. That it was impossible for the party of the rebels to be so inconsiderate or vain, as to imagine that the body of this free people, blest in the enjoyments of all their rights, both civil and religious, under His Majesty's protection; secure in the prospect

* Correspondence of H. Walpole with G. Montagu.

of transmitting them safe to their posterity, under the Protestant succession in his royal house, would not rise up, as one man, to oppose and crush so flagitious, so destructive, and so unprovoked an attempt. Accordingly, the rebels soon saw His Majesty's faithful subjects, conscious both of their own duty and interest, contending to outdo one another in demonstrations of their zeal and vigour in his service. Men of property, of all ranks and orders, crowded in with liberal subscriptions of their own motion, beyond the example of former times, and uncompelled by any law, and yet in the most legal and warrantable manner, notwithstanding what had been ignorantly and presumptuously suggested to the contrary. His lordship concluded thus :—

“ It has been His Majesty's justice to bring your lordships to a legal trial ; and it has been his wisdom to show, that, as a small part of his national forces was sufficient to subdue the rebel army in the field, so the ordinary course of his laws is strong enough to bring even their chiefs to justice.”*

Then, after a short pause, His Grace pronounced sentence as in cases of high treason. Afterwards, breaking his staff, he put an end to the commission.

The draft of the Lord High Steward's address, together with copious notes made by him of the evidence and arguments adduced on this occasion, as also the warrants for the execution of the Earl of Kilmarnock and Lord Balmerino, are among the papers of Lord Chancellor Hardwicke.

The following is a letter from Horace Walpole to Mr. G. Montagu, in which the writer's spleen against,

* Hardwicke MSS., Wimpole.

and hatred of Lord Chancellor Hardwicke, are fully displayed.

“You have lost nothing by missing yesterday at the trials, but a little additional contempt for the High Steward ; and even that is recoverable, as his long paltry speech is to be printed, for which, and for thanks for it, Lord Lincoln moved the House of Lords. Somebody said to Sir Charles Windham, ‘Oh ! you don’t think Lord Hardwicke’s speech good, because you have read Lord Cowper’s.’ ‘No,’ replied he, ‘but I do think it tolerable, because I heard Serjeant Skinner’s.’ Poor brave old Lord Balmerino retracted his plea, asked pardon, and desired the lords to intercede for mercy. As he returned to the Tower, he stopped the coach at Charing Cross to buy honey-blobs, as the Scotch call gooseberries. He says he is extremely afraid Lord Kilmarnock will not behave well. The Duke said publicly, at his levee, that the latter proposed murdering the English prisoners. His Highness was to have given Peggy Banks a ball last night, but was persuaded to defer it, as it would have rather looked like an insult on the prisoners the very day their sentence was passed. George Selwyn says that he had begged Sir William Saunderson to get him the High Steward’s wand, after it was broke, as a curiosity ; but that he behaved so like an attorney the first day, and so like a pettyfogger the second, that he would not take it to light his fire with ; I don’t believe my Lady Hardwicke is so high minded.”*

In another letter from the same to the same, dated August 5, it is stated—

“Lady Cromarty presented her petition to the King last Sunday. He was very civil to her, but would not at all give her any hopes. She swooned away as soon as he was gone. Lord Cornwallis told me that her lord weeps every time any thing of his fate is mentioned to him. Old Balmerino keeps up his spirits to the same pitch of gaiety. In the cell at Westminster he showed Lord Kilmarnock how he must lay his head ; bid him not wince, lest the stroke should cut his skull or his shoulders, and advised him to bite his lips. As they were to return, he begged they might have another bottle together, as they should never meet any more till —, and then pointed to his neck. At getting into the coach, he said to the jailor, ‘Take care, or you will break my shins with this damned axe.’

“My Lord Chancellor has got a thousand pounds in present for his

* Correspondence of H. Walpole with G. Montagu.

high stewardship, and has got the reversion of clerk of the crown (twelve hundred a year) for his second son. What a long time it will be before his posterity are drove into rebellion for want, like Lord Kilmarnock !” *

On the attack here made by Horace Walpole on Lord Hardwicke, and the injustice of his censures, are the following fair and sensible observations, which are contained in a *Life of Lord Hardwicke* that appeared in the *Law Magazine* some time ago,† from the pen of an eminent judge, who was as remarkable for the impartiality of his opinions, as for the ability with which he discharged his important duties.

“ Horace Walpole has taken so little pains to disguise his prejudices with regard to most of those he is pleased to vituperate, and in particular his rancorous and inveterate hatred against Yorke, that his testimony would be of little or no weight, even were it not contradicted by irrecusable evidence, and in some instances by his own admissions. Thus, in speaking of an after period of this great lawyer’s life, when, as Lord High Steward he presided at the trial of the rebel lords who had taken arms in the service of the Pretender, he tells us that his demeanour towards the noble prisoners was that of a low-born upstart, proud of an opportunity to evince his loyalty, by insulting his fallen superiors. But this accusation is entirely disproved by the very full and minute report of the proceedings, wherein, though every word he uttered seems to have been noted down with scrupulous accuracy, we find nothing to corroborate the charge. It is evident that Lord Orford was not sufficiently on his guard against the charge to which those who deviate from truth are continually running the risk of exposing themselves,—namely, that of unwarily betraying their own general want of veracity, by an occasional adherence to real facts wholly incompatible with the imaginary occurrences they have chosen to invent. In one part of his memoirs, for example, he plainly declares of Lord Hardwicke, ‘that in the House of Lords he was laughed at, in the cabinet despised :’ but the very same work affords us many previous instances, which, by the author’s own showing, make it very plain that his opinion was of considerable weight in either place.

* Correspondence of H. Walpole with G. Montagu.

† No. 7, Jan. 1830.

“ This is a tolerable illustration of the proverbial aphorism, That a good memory is particularly necessary to those who have little regard to veracity.”

The following letter is from his Royal Highness the Duke of Cumberland to Lord Hardwicke, in reply to a note of the Lord High Steward respecting a summons to the House of Lords, on the occasion of the trial of the rebel lords.

“ *Fort Augustus, July y^e 17th, 1746.**

“ MY LORD CHANCELLOR,—I return many thanks for your kind letter in respect to the summons of the House of Lords. Nobody can take occasions of making a flattering obliging compliment as you do, nor make use of it in that manner. I can assure you, my lord, that they please much any one that knows the person they come from. I can only say in return that Collonell York will be in town soon, and has taken every occasion to improve himself, and of being usefull, which he has fully succeeded in. I remain,

“ Your affectionate friend,

“ WILLIAM.”

The extract which follows is from another letter written by Horace Walpole to Mr. G. Montagu.

“ I have been this morning at the Tower, and passed under the new heads at Temple bar, where people make a trade of letting spying-glasses at a half-penny a look. Old Lovat arrived last night. I saw Murray, Lord Derwentwater, Lord Traquair, Lord Cromartie and his son, and the Lord Provost, at their respective windows. The other two wretched lords are in dismal towers, and they have stopped up one of old Balmerino's windows, because he talked to the populace; and now he has only one, which looks directly upon all the scaffolding. They brought in the death warrant at his dinner. His wife fainted. He said, ‘ Lieutenant, with your damned warrant you have spoiled my lady's stomach.’ ”†

* Hardwicke MSS., Wimpole.

† Correspondence of H. Walpole with G. Montagu.

On the morning of the 6th of August, Lords Balmerino and Kilmarnock were beheaded in the Tower. They suffered with great fortitude, dignity, and composure, amidst a vast concourse of spectators, who behaved with the utmost decency. Lord Cromartie's life was spared. Lord Hardwicke is said to have used his influence on his behalf, and there are several letters, written at a subsequent period, expressing warm regard, from Lord and Lady Cromartie to the Chancellor.

Dr. Doddridge, in a letter to Mrs. Doddridge,* described the particulars of the execution of Lords Kilmarnock and Balmerino, in the following terms:—

“ I could fill my paper with an account of the unhappy lords who were executed yesterday ; but deferring many particulars till we meet, which I hope will not be too soon, I shall only tell you that there was the most remarkable contrast that can be imagined in the manner of their death. Lord Kilmarnock, who was attended on the scaffold by Mr. Foster, (to whom he has committed the charge of publishing an account of him,) appeared in mourning, with all the signatures of meek submission and unfeigned repentance. He spoke in the most respectful and affectionate manner of the Royal Family, declared his detestation of the rebellion, in which, as he said, he had unhappily engaged ; and prayed with his dying breath for King George and the establishment of our religion and liberties under him. He continued twelve minutes extended on the block before he gave the sign, and, in the earnestness of his supplications raised himself three or four times. The executioner, on addressing himself to his office, burst out into a flood of tears ; but recovering himself, on the earl's throwing away his handkerchief, performed it at one stroke ; the people in the meantime praying for him aloud, and saying in multitudes, Lord Jesus, receive his spirit. Mr. Foster turned away during this scene, and then followed the corpse in a mourning coach to the Tower. Lord Balmerino appeared in his French regimentals, examined the inscription and lining of his coffin, and felt the block and the axe with such intrepidity, that some of the spectators took him for an officer who was to see that all was right. He read a paper, (full of attachment to and zeal for the Pretender,) and then, refusing any assistance from the clergyman, showed the executioner

* Diary and Correspondence.

where he would be struck (which was too near the shoulders), put on his Highland bonnet, and, without giving any sign at all that I heard of, lost his head at three blows. The spectators seemed to have lost much of their grief for poor Lord Kilmarnock, whom the King would have pardoned if he could, in their joy for the death of so determined a rebel. I visited Mr. Chandler on Saturday, who gave me a large account of the excellent temper and behaviour of Lord Cromartie, and of the reasons on which the King and council have proceeded in determining on his pardon, which I think very considerable; but at present he is neither pardoned nor reprieved, only,—which is much better than the last,—his name was omitted in the death warrant.”

Colonel Yorke, in one of his letters to the Lord Chancellor, written at the end of June, mentions the following :—

“ I do not find that the Y. Pretender’s situation is at all certain. The wise here tell me that there are parties after him. I know some that were sent mist of him, since w^{ch} I hear a French ship came upon the western coast, with 60 persons on board, six of whom came on shore at Loch Broom, & 4 spoke no English. They wanted a pilot to go to the Isle of Lews, or the Long Island. I take it for granted that we shall very soon have further accounts of them.”*

Colonel Yorke wrote again to Lord Chancellor Hardwicke, from “The Camp of Fort Augustus,” on the 2nd of July. His letter states :—

“ One of our parties last night brought in one Hugh Frazer, secretary & factotum to Lord Lovat. He was sent out with the clan as a governor to his son. At Culloden he was shot thro’ the arm, & has lived with^t any assistance in the mountains ever since, having been obliged to give himself ease 3 or 4 times by making incisions in his arm with a penknife. On y^e approach

* Hardwicke MSS., Wimpole.

of y^e party, (w^{ch} was of Kingston's horse,) he was carried out of the house, where we had intelligence he was hid, & by a hand litter was convey'd to a cave in a rock, the people who carried him out running away, in hopes to deceive the soldiers. But the officer imagining they fled with some such view, examined all the holes in the mountains, & found him. 'Tho' 'tis near 3 months since the battle, the man has never been dressed by a surgeon. To what a time have Highlanders lived, that even the light horse can gallop up & down their mountains at pleasure!'"*

The extract which follows, from a letter written by Dr. Birch to Mr. P. Yorke, on the 9th of August, contains an account of Lord Chancellor Hardwicke's efforts in the House of Lords on behalf of a measure which has already been referred to as one of those which the Government at this time introduced for the regulation of Scotland, and the prevention of a recurrence of such an outbreak as had lately been witnessed there:—

"The hint which you gave me on Monday sent me to the House of Lords next day. My Lord Chancellor, after the passing the clauses about qualifying schoolmasters, tutors, and chaplains in Scotland, in a speech of near an hour long, opened his sentiments with regard to the regalities and heritable jurisdictions in that kingdom. He began with declaring that he should avoid, as he had done in all other places and upon all other occasions, everything personal or national; but that he could not help thinking, from the two formidable rebellions which have broke out there within about thirty years past, that the cause must arise from some peculiar defect in the constitution and government of that kingdom. That an union had been indeed attempted in the beginning of the reign of our James I., who took for his motto on some of his coins, '*Faciam eos in gentem unam*;' but that this union was only a nominal one, there still subsisting a total difference of counsels, administrations, and parliaments, attended with the highest inconveniences to both nations. That a more substantial and even an incorporating

* Hardwicke MSS., Wimpole.

union was formed in the year 1706 and 1707 ; but that he observed, from the papers of some of the great men concerned in that glorious task, that what was then done was not all that they intended or thought necessary. That it were to be wished, that the two nations could be reduced under one system of laws, as Wales was under that of England ; but that this must be a work of long deliberation ; and therefore, for the present, he would only offer what the public safety more immediately required. He then explained very clearly and fully the Scots' superiorities, which are of the same or a higher nature than our old tenures, and their regalities and heritable jurisdictions. The first of these he showed to be very oppressive of the people in general, and consequently very necessary to be redeemed by the public, for the establishment of freedom and encouragement of industry ; to which end he had a Bill lying by him, drawn up with the assistance of some learned, able men ; but he had not thought proper to introduce it into Parliament this Session, lest it should be imagined that this was all that was intended to be done, since the much more important article was the extinction of the regalities and heritable jurisdictions, by means of which a great part of Scotland was absolutely exempt from the authority of the Crown ; the inconveniences of which had been long ago so severely felt there, that an act was made under James II., in the year 1455, to prevent the granting away any regalities without deliverance, that is, consent of Parliament. His lordship then proposed, in order that this important affair might necessarily be taken up in the beginning of the next session, that the lords of the session in Scotland should be directed by the House to inquire into and make a report of the number and quality of these regalities and heritable jurisdictions, in whose hands they are, when granted, and which of them since the above mentioned act of James II. ; and prepare the draft of a bill for the removal of those regalities, &c., and the better administration of justice throughout the kingdom, in His Majesty's name, and by His Majesty's judges.

“ Lord Granville highly applauded my Lord Chancellor's proposal, as what he had long wished to see executed, and given his opinion for thirty years ago to the great men at that time, as the only means of preventing any future rebellion, and improving the wealth of Scotland. But he objected to the motion for referring the inquiry to the lords of the session, since that might occasion a great loss of time, and at last prove ineffectual. His chief difficulty was, that their court did not meet till November.

“ But my Lord Chancellor replied, that this order was not addressed to them as a court, but as individuals who were expected immediately

to apply themselves to the inquiry. However, his lordship observed, that as the main point which he had in view, was to procure the draught of the bill, he should not then submit the other part of his motion with relation to the report of the regalities, &c., to their lordships, though he thought even that necessary, in order to make a compensation to those who were in possession of them.

“Lord Cholmondeley and the D. of Newcastle then spoke about the manner of digesting the motion; and Lord Stair moved for postponing it till the next day, that they might better inform themselves with relation to the power of the lords of the session for making such an inquiry—which Lord Granville had seemed to question. Lord Stair professed great zeal for the substance of the motion; but wished one more defect in the union was removed, which was what he called the proscription of the nobility of Scotland, by which they were debarred any access to the highest honours of the kingdom.

“The question for ordering the lords of the session to send up the draught of a bill was first put, and then that for the report of the regalities, and both were carried without any division; but without the least support from the D. of Argyle, who sat by in a corner, silent, and complained of the headache.” *

Parliament was soon after prorogued by a speech from the throne, which was the Chancellor's composition; after which, Lord Hardwicke, with a portion of his family, went down to Wimpole.

Mr. Philip Carteret Webb, the solicitor to the Treasury, who was attending the trials of the rebel prisoners at York, wrote to the Lord Chancellor from thence on the 25th of August, giving an account of the proceedings there. He mentioned that the grand jury had found bills against seventy-five prisoners, and that not one bill had been thrown out. He then informed Lord Hardwicke,—

“I dined yesterday with the Archbishop of York. His Grace is in perfect health, & charged me with his comp^{ts} to y^r lordship. I was agreeably entertained at Bishop's

* Hardwicke MSS., Wimpole; Hansard's Parl. Hist.

Thorpe with the picture of your lordship, by Mr. Wills. It is so mellowed down, that it is by much the best picture that hath of late years been drawn for you. It is what I would have wagered it would never be,—extremely like your lordship, & that kind of likeness which gladdens every one who has the happiness of seeing your lordship in your pleasantest hours at Wimpole.”*

Miss Elizabeth Yorke, the eldest daughter of Lord Chancellor Hardwicke, during the course of the autumn, wrote to her brother, Colonel Yorke, from Wimpole, where the Chancellor and his family were then residing, and gave the following amusing account of an occurrence which had just happened.

. “ At dinner time, our company was joined by Mr. Vice-Chancellor, from Cambridge, which was certainly an improvement of the meal. Before it was quite over, whilst papa washed his hands, William brought in a little dirty, twisted-up note, which he said came from the Duke of Grafton, & was brought by a man who looked like a farmer. This gave great astonishment. Beneath is the shape, size, & contents of this important message from my Lord High Chamberlain, to my Lord High Chancellor. The bit of paper was so ragged it w^d not open without tearing in the manner represented. It was wrote in his Grace’s own hand, & I wish I had time to make a fac-simile of it for you. Upon inquiry, it appeared that this landlord, who had married for love, (& that twice as we found by talking with him, for it was he who brought the note,) was the master of an alehouse at a village called Toft, about three miles from hence. His name Robert Mould; his sign the Black Bull; & there his Grace had dined on Sunday, in his way out of

* Hardwicke MSS., Wimpole.

Northamptonshire to Euston, & having conversed with and amazed the man, at last wrote this billet, and ordered him to carry it to Wimpole that evening, which the poor man very carefully made his excuses for not doing, saying he was prevented by the rain. He told us, too, that the Duke of Grafton was a very merry man. This event served us to laugh at a little yesterday, & has helped to make me scrawl a great deal to-day.”*

The following was the epistle alluded to, from the Duke of Grafton :—

“The Duke drank his Lordship’s health, & Colonel Fitzroy Joe Yorke.

“Our landlord married for love.”

The Archbishop of York, though the rebellion was now well extinguished, was still actively employed in the furtherance of every measure which could ensure the continued tranquillity of the country. In a letter to Lord Chancellor Hardwicke, dated the 16th of Sept., he expresses himself as follows, on the subject of the late outbreak and the measures necessary for its entire extinguishment.

“Your lordship, I make no doubt, has every day stronger proofs that this perfidious & rebellious spirit has deeper connections than the world is aware of. I pray God grant the King & his friends penetration & opportunity to get to y^e bottom of y^e evil, & inspire into them safe & just means to prevent the return of it. Here are great and general apprehensions expressed, & strongly too, in this county, that the King’s merey may give spirit to his enemies, & dishearten his true friends; & particularly wth regard to y^e reprieve of a noble E——l,*

* Hardwicke MSS., Wimpole.

† The Earl of Cromartie.

there are so many proofs brought of his inhuman, sanguinary temper, & savage usage of our officers, that it gives prodigious uneasiness. * * * *

“I hear to-day, from an officer of distinction, that these miscreants are up in small companies in y^e H. lands. The murder of Catanach & Monro, & y^e insult upon Ancram & Gordon, are strong evidences of their obduracy; & I am very well informed that it is unsafe for any Kirk minister, who has declared for K. G. to abide in his own house without a guard of soldiers. These are frightful appearances; & if not indications of a new rising, very strong agitations of a dying one. All that I have seen fro’ y^e north, since y^e battle of Culloden, agree that the Scots are more enraged than weaken’d, & that the disaffection is so general, & so deeply rooted, that neither death will terrify, nor benefits engage them to obedience. * * * *

“I long extremely to wait upon y^r l^p at Wimpole, where all the world applauds your improvements.

* * * *

“I pray God preserve your lordship in health & long life, for a thousand reasons, both private and publick, in these nice and perilous days, when every step a good man takes to preserve his country, he does *incidere per cineres dolosos*.” *

The Chancellor, during the present long vacation, was allowed to recreate himself without interruption at Wimpole, where his eldest son, with his family, paid him a visit.

Mr. P. Yorke, in a letter to Dr. Birch, dated the 30th of September, gives some account of the improvements at Wimpole, referred to in the Archbishop’s letter.

* Hardwicke MSS., Wimpole.

“I came over to Wimpole on Monday was se’nnight, w^{ch} is so much improved by the alterations my lord has made there, that to one, who had only taken a cursory view of it before, it would appear quite a different place. It has fared with him, as with others, who have been dabbling in mortar & stucco, that the real expense doubles what it is computed at in the estimates; but he seems to enjoy his improvements wth a true relish, & that satisfaction w^{ch} a man must receive from the completion of his design, & the success of it.

“I am in hopes the refreshment w^{ch} the air & exercise of the country afford, will enable him to go through the fatigues of the winter wth his usual spirits. He c^d not support so great a load of business with^t the relief of the long vacation; & I dreaded the effect w^{ch} the loss of it last summer might have had on his health. This may seem strange to you, to whom I know that blessed town of London is all health, & the view of the Surrey hills from your barge study appears a much pleasanter scene than that from the Hill-House at Wrest.”

The same letter also contains a notice of the public events of the day.

“L^d Albemarle writes to the Government that the young Pretender has at last actually made his escape from the Western coast on board 2 French privateers of considerable force; but lies abound so in that country, that I suspend my belief till the account is confirmed.

“The judges have almost ended at Carlisle, & highly commend the H. Sheriff of Cumberland & the Grand & Petty Jurys for the regard to justice & true zeal for the service wth w^{ch} they have behaved all along. Our friend Webb has gained great credit for his dispatch, skill, &

acuteness, in the management of the prosecutions, as solicitor for the crown.’’*

On the 1st of November the Duke of Newcastle addressed a somewhat lengthy epistle to the Lord Chancellor, on the subject of a misunderstanding which had arisen about the Lord Lieutenancy of Ireland, and soliciting the aid of Lord Hardwicke to adjust the differences on the subject. The Duke commenced his letter thus—

“ The great share which your Lordship has in the administration, and in the conduct of affairs, and the particular affection I flatter myself your Lordship has for me, will I hope justify the liberty I take in representing to your Lordship the necessity of your immediate interposition, with your weight and influence, to prevent the unavoidable ill consequences that must otherwise arise from the dispute about the lieutenancy of Ireland.”†

The Lord Chancellor in his reply to this letter, in which he mentions the steps he had at once taken in furtherance of the Duke’s wishes, assures the Duke—

“ Your Grace does me a great deal of justice as well as honour, in the particular and private motives alleged in your letter, to induce me to interpose with the Duke of Dorset upon the great point now in dispute.”‡

In one of Miss Yorke’s letters, written to her eldest brother, in November, are the following interesting scraps of intelligence, both domestic and foreign, of this period:—

“ Some papers of foreign intelligence, that papa brought into the parlour for Joe to read to him the other night, gave an account of the alarm given on the coast of France by our fleet. The chief particulars I could collect from them, were that the French had as bad intelligence as we could have complained of on the like

* Hardwicke MSS., Wimpole.

† Coxe’s Pelham.

‡ Ibid.

occasion; that they were most apprehensive of our seizing Belle-Isle, & that the English troops had made themselves very odious in the country by plundering convents, churches, &c. One of these letters, which was wrote from Paris, affirmed . . . that Cardinal Tencin presses an invasion of England very warmly, being resolved to support the Pretender. . . .

“The Archbishop of York tells my brother that the reprieve for the Frenchman who was condemned at York found him on the sledge in his way to the gallows, so that he must have been quite without expectation of mercy, & in that situation had employed himself for some days in making a copy of verses to be given at his execution, instead of a dying speech; to which his Grace adds, an Englishman might have thought of drawing up some justification of himself, but only a Frenchman could have done it in an ode.”*

The following passage in a letter, which Lord Chancellor Hardwicke wrote soon after the above to his son Colonel Yorke, who had then returned to Flanders, contains a humorous allusion to a suit relating to a matrimonial affair which was in progress in the Court of Chancery:—

“I hear letters are come in to-day, but I say nothing, because I know nothing, of them, having been sitting all day in Chancery. To-morrow morning I hope to finish, & *pour faire bonne bouche* to conclude with Sir Everard† & his lady. Make my compliments to him, & tell him he is the first man I ever knew in my life that, at the distance of so many hundred miles, was suing to be married in a court of equity.”‡

* Hardwicke MSS., Wimpole.

† Sir E. Fawkner, whose marriage is alluded to by Lord Lovat.

‡ Hardwicke MSS., Wimpole.

The last of the rebel peers whose fate now remains to be noticed is Lord Lovat, the most important in point of influence, and the greatest criminal by far among them.

Lord Lovat's arrival at the Tower is thus recorded in one of the daily journals :—

“Friday, 15th August.—Simon Fraser, Lord Lovat, arrived at the Tower in an open landau, drawn with six horses, guarded by a party of Ligonier's horse, and accompanied in the landau by an officer. As he passed through the streets he seemed very unconcerned, but coming on the hill, he turned his eyes towards the scaffolds erecting for beholding the execution of the lords, and lifting up his hands, said, ‘A few days, and it will be my unhappy fate.’”

Parliament was re-assembled on the 18th of November, when it was opened by a speech from the throne, the draught of which was settled by Lord Hardwicke. It commenced as follows :—

“MY LORDS AND GENTLEMEN,—I have called you together as early as the late conclusion of the last session of Parliament, and the situation of public affairs, would permit. During this recess I have been particularly attentive to extinguish any remains of the late rebellion, and to re-establish and secure our tranquillity at home, so far as depended upon me. The rest I have reason to expect from your zeal and prudent deliberations, of which the foundation already laid gives me well-grounded hopes.”

The rest of the speech relates to foreign affairs, the war, and the supplies. The following passage was introduced by Lord Chancellor Hardwicke :—

“It shall also be my particular care to exert our strength at sea, in the most effectual manner, for the defence of my kingdoms and possessions, the protection

of the trade of my subjects, and the annoyance of our enemies.”*

Preparations were soon afterwards made for commencing the proceedings against Lord Lovat, respecting which we shall shortly have an account. Lord Chancellor Hardwicke was on this occasion appointed to preside, as Lord High Steward, at the trial, which, the subject of it being a peer of the realm, was before the House of Lords. Very ample notes were made by Lord Hardwicke preparatory to this, the greatest occasion on which he acted as a criminal judge; and which are of interest to the lawyer, as exhibiting the mode in which he qualified himself for so important a task, and the great pains which he took to perform those duties efficiently.

Mr. P. Yorke, in a letter to his brother, Colonel Yorke, dated 23rd December, afforded an account of the opening of the proceedings against Lord Lovat, which were by impeachment of high treason by the House of Commons, at the bar of the House of Lords.

“ Lord Lovat’s impeachment passed *nem. con.* The letter laid before the House, signed by himself, & the handwriting proved by his secr, to whom he dictated it, is enough to hang the first Duke in the kingdom. In this letter, w^{ch} was intended for Murray, he recommends his son (whom he calls the darling of his old age) to his protection, mentions the having sent him out at the head of the clan to fight under the eyes of the glorious Prince Royal, expresses his old strong attachments to the Stuart interest, & laments with concern that he is unable, thro’ age & infirmity, to venture his old bones in the service of the Pretender.

* Hardwicke MSS., Wimpole.

“ Sir W. Yonge moved the impeachment, with his usual flow of language & copiousness. You may have probably seen my name in print as a manager, & I assure you the being perched up as a public orator in Westminster Hall, appears to me at present in a very terrible light. I hope you will be over before that time, to prepare me for the solemnity, wth a proper dose of that *sal volatile* of spirits, w^{ch} you carry about you & administer so *apropos* to your friends. The articles are in number 7, & there is a handsome preamble, setting forth the odiousness of the rebellion. We charge him wth receiving commissions from the Pretender in 1743 & 45, wth waging war against y^e King by sending out his clan to join y^e rebels, wth corresponding wth the Y. Pretender, Murray, Lochyel, & other traitors, & aiding & encouraging them to prosecute their treasonable designs.

“ The old fellow was brought last Thursday to the bar of the H. of Lords, where he behaved wth great unconcern, & affected to claim acquaintance with & talk to several. He pretended not to hear one word of the articles when they were read to him by y^e clerk, & yet answered readily to my lord when he spoke to him from the woolsack. He has 4 council & 3 sollicitors allowed him. He complained, by petition, that his estate had been granted away in an extraordinary manner, & that since his confinement he had subsisted on the charity of General Williamson. L^d Gr. & B—th* took this complaint up, & said the House was obliged *ex officio* to redress it. The latter thought they sho^d punish whoever had illegally sequestrated his estate. The lords ordered that the advocate sho^d report if the case was as Lord Lovat had stated it, & sh^d put him in possession of his estate, in the same manner as if he was not in

* Lord Granville and Lord Bath.

custody. He has time till the 13th of next month to put in his answer.”*

Lord Chancellor Hardwicke wrote to Colonel Yorke on the 29th of December. His letter contains some further account of the proceedings against Lord Lovat, and more full particulars respecting the petition alluded to in Mr. Yorke's letter, and the debate upon it.

. . . “As soon as the petition had been read, & his lordship withdrawn, the Duke of Newcastle took it into his hand, & made the proper motions for council, solicitors, time to answer, &c. After this, my Lord Granville, with a high tone of voice & strong words, took the other part relating to his estate. He represented it as the boldest assertion that ever was made by a man standing at the bar in his circumstances. That the petitioner made it at his peril; but it became the court, which was to judge him, to see that, before conviction, he was not stript of the means of making his defence. This he urged in various lights, & tho' he concluded no particular motion, his arguments tended to stopping the proceeding till the matter was inquired into, & that the House ought to interpose in it. The Duke of Newcastle answered him with great spirit, & gave the House an account of the only applications L^d Lovat had made to him, the first in September, about the sum of £1000, which had been stopt in his banker's hands, at Edinburgh; & the last about a fortnight before, concerning the rents of his estate & his strong box; upon both which the King had given the proper orders, tho' no return had yet been made to either. My Lord Bath spoke next in the same sense with my Lord Granville, but concluded with a motion for an address to His

* Hardwicke MSS., Wimpole.

Majesty, to be informed who gave the orders complained of in the petition. After this, some other lords spoke, & Lord B.'s motion was treated as it deserved. In particular my L^d Cholm.* left the persons he is at present connected with, & differed from L^d B. in this point. The tending of y^e whole was obvious, & accordingly thought of; but the immediate point of business was to prevent this pretence from being made use of as a handle to obstruct the proceeding. The King's servants, having not received from Scotland any full or clear account of the fact, cou^d speak only from hints & conjectures. To go into an inquiry to make it clear, wou^d have answered the old fox's purpose to spend time & create delay; & yet (as usually happens in such cases) many lords tho't that it concerned the jurisdiction & authority of the House to come to a resolution upon it. The shortest way appeared to be to make a kind of declaratory order. That since the lord was in custody & under prosecution, he shou^d be permitted to receive the rents & profits of his estates by his factors or agents. This was grounded on the present circumstances, without regard to what had passed, *flagrante rebellione*, in which whatever was necessary was undoubtedly justified by that necessity. And happy was it for us all that we had a head & hand that understood & dared to execute it! As to the strong box, little notice was taken of it in the House; but I suspect there may be some mistake in the account you have received concern^g it, for Capt. Ferguson, having since the debate been spoke to by the Duke of Newcastle, owns he has it, & also between £200 & £300 of the money which was taken in it.

“ Two days after the petition, an answer (tho' imperfect) came from the Lord Advocate of Scotland to the

* Lord Cholmondeley.

Duke of Newcastle's letter, which had been sent on Lovat's last application to his Grace. By this it is said to be admitted, by his own factor, that no orders had been given to receive the rents of his estate in general, but that some person had been appointed by Sir Everard Fawkener to take possession of a particular farm, which was in Lovat's own occupation, which appointment is understood to have been cautionary only.

"This is the best account I can recollect of this odd affair; which I am persuaded can end in nothing but to increase the indignation against those that have appeared so warm in it."*

In a letter to Colonel Yorke, written by Mr. P. Yorke from London, and dated "^{Feb. 23rd,} ~~March 5th,~~ 1747," we have some additional intelligence as to the proceedings against Lord Lovat.

"Lovat's tryal certainly begins on Thursday se'nnight. He will throw y^e whole on his son, & attempt to disqualify our witnesses, as not competent. If he is convicted, (as I have not the least doubt to the contrary,) the thanks are due to the Duke, who procured both the written & *vivâ voce* evidence. The recognitions of several witnesses have been taken in Scotland, by Lord Loudon, but we hear nothing of their being on the road, tho' I believe had an express been sent directly to my Lord, & y^e orders for them not gone into another channel at Edinburgh, they w^d have been forthcoming before now. It is reported in town, that some of the rebel chiefs are landed with arms in the Western Highlands, but I cannot find there is any certainty in it. Sec^y Murray will appear as a witness at the tryal. I had y^e pleasure of being three hours in his company at the Tower, when he was

* Hardwicke MSS., Wimpole.

brought before the committee. The man is well-fashioned, & answered freely enough, but I believe Sherridan was in more secrets.”*

On the 3rd of March, Mr. Yorke wrote again to his brother. In his letter he tells him,—

“Lord Lovat presented a petition this day to the Lords, desiring further time; but, as he assigned no tolerable reasons for it, the House rejected it, so the trial stands for Thursday. I will acquaint you wth y^e progress of it.”†

Accordingly, on Thursday the 4th of March, Lord Lovat was brought to the bar of the House of Lords, by the deputy-governor of the Tower. The prisoner, when he approached, made three reverences, and then fell upon his knees at the bar. Upon which, Lord Hardwicke, the Lord High Steward, said to him, “Your lordship may rise.” The prisoner on this rose up, and bowed to his Grace the Lord High Steward, and to the House of Peers, which compliment was returned him by his Grace and the lords. After this, proclamation being made for keeping silence, the Lord High Steward addressed the prisoner as follows:—

“*Lord High Steward.*—Simon Lord Lovat, you stand impeached of high treason, by the knights, citizens, and burgesses in Parliament assembled, in the names of themselves and of all the Commons of Great Britain; and your lordship is now brought to the bar of this house, to receive your trial upon that impeachment.

“The weight of this accusation, the solemn manner of exhibiting and prosecuting it, and the awfulness of this supreme judicature, the most illustrious in the world, are circumstances that may naturally strike your mind with anxious and alarming apprehensions. Reasonable and well-grounded must those apprehensions be, if they proceed from that greatest of all terrors, a consciousness of guilt. But if your lordship is innocent, if you have really preserved yourself untainted with the

* Hardwicke MSS., Wimpole.

† Ibid.

heinous crimes laid to your charge, as you have averred by your answer, these very awful circumstances, when duly considered, ought to have a contrary effect, and to afford you support and consolation.

“Your lordship can never doubt of the greatest fairness and candour in the management of a prosecution carried on by the House of Commons, intrusted and highly concerned to preserve the rights and liberties of their fellow-subjects. Neither can you entertain the least doubt of a just and impartial tryal where the law of the land, and the custom and usage of Parliament, (an essential part of that law,) constitute the rule of proceeding; and the decision and judgment rest in the breasts of these noble lords your peers, who are to try you upon that honour which is inseparable from them, and to judge you by that law which is the great security of themselves and their posterity.

“It is my duty to put your lordship in mind of some things which may be of use to you in the conduct of your defence; but in this I shall be the shorter, since, at your own request, counsel have been already assigned you, with whom you must be presumed to have advised.

“Your lordship must give due and patient attention to the reading of the articles of impeachment, and what shall be said by the managers for the House of Commons, or offered in evidence against you, without giving any interruption. But when the managers shall have finished the examinations on their part, of any witness produced by them, you will have liberty to cross-examine that witness.

“When the managers for the Commons shall have gone through their evidence, and closed what they shall think fit to offer by way of charge, then will be your lordship's time to make your defence. In doing this, you and your witnesses will be heard with the greatest attention and equity.

“But your lordship must take notice that your counsel are not to examine or cross examine any witness, nor to give you any assistance, while matter of fact only is in question; but if any points or matter of law shall arise during this proceeding, they will, according to the known rules in such cases, be heard to it in your behalf; and for that purpose are permitted to be present whilst your lordship is at the bar.

“The witnesses produced in your defence must be examined upon oath, pursuant to a very just and wise provision, made by act of Parliament in the first year of the late Queen Anne, and according to the form established by their lordships in former cases of impeachment.

“By command of their lordships, I am further to acquaint you, and all other persons who shall have occasion to speak to this court, that

they are to address themselves to the lords in general, and not to any lord in particular.

Before I conclude, I must beg the indulgence of the House to add one thing more. If your lordship shall desire to have the use of pen, ink, and paper, to take notes in order to your defence, I presume it will be permitted; * and if in the course of your trial, you should happen to omit any advantage, which in law and justice ought to be allowed to you for your defence, such is the candour of my lords, your judges, that I trust I shall meet with their approbation in giving you notice of it.”†

The articles of impeachment, and Lord Lovat’s answer to them, with the replication of the Commons to the latter, were then read.

The following interesting and animated description of the earlier part of Lord Lovat’s trial, is extracted from a letter of Miss Elizabeth Yorke, who was one of the ladies present on this occasion, to her brother, Colonel Yorke. It bears date the 14th of March :—

. “I could wish you had never seen Lord Lovat, that I might send Mr. Hogarth’s print of him, in return for your charming & picturesque description of *Mad^e la Marechale de Bathiani*, which was certainly very judiciously addressed to a lady, since it is always held that each of us thinks abuse upon others the highest flattery to herself.

“I shall now proceed to give you a general account, so far as are past, of the proceedings, in what will be a

* Among Lord Hardwicke’s notes and memoranda preparatory to this important trial, are the following :—

“*Mem.* To acquaint the lords with y^t p^t of y^e speech which relates to pen, ink, and paper; & to putting L^d Lovat in mind of every advantage he may omit.

“*Q.* As to making an order for pen, ink, and paper for him, or his solicitors to take notes?

* * * * *

“*Q.* Council sitting at the bar. [No.]”

† Trial of Lord Lovat.

very long tryal. It began on Monday, & the managers opened their charge by three speeches, by Sir. Will. Yonge, L^d Coke, & the Attorney-General; the first touched on the general topicks of Jacobitism & the rebellion; the second was something of the same kind, but extremely short; & the third contained the particular charge against the prisoner. My lord* then desired that, on account of his age & infirmities, his solicitor might be allowed to take notes & ask questions for him; the first part of his request was granted, but he was told that it was contrary to the rule of law for any one to assist him as to matters of fact, & that he must, therefore, examine & cross-examine for himself. After this, there were two evidences called, to whom the prisoner objected, as being his tenants, &, therefore, interested witnesses. This he cou^d bring no proof of, & they denied it upon oath. They were then examined, & proved his drinking Jacobite healths, calling the Pretender's family by the royal names, reading their declarations, & telling those who found fault with them that they talked treason, with other such facts. On Tuesday, Mr. Secretary Murray was brought to give his evidence, & objected to by L^d Lovat as being an attainted person, & consequently not a competent witness. To this the managers answered, that he had been brought into the King's Bench the last term, & had been asked why sentence should not pass against him according to the bill of attainder; that to this he had pleaded the having surrendered himself, & being amenable to justice before the time limited in the Act; that the Attorney-General, by warrant from the Crown, had confessed this plea, that Murray had been thereupon remanded to the Tower, to take his tryal in the common course of law;

* Lord Lovat.

that there had been a record made of this proceeding in the court of King's Bench, that they had brought that record as an evidence of the fact, & desired it might be read. Lord Lovat then objected to the reading of the record, & said he cou^d produce several witnesses to prove that Murray did not surrender himself, & desired his council might be heard. He was asked which objection he desired to have argued, that against reading the record, or that against Murray's surrender, when by a great oversight he chose the first. This he did, probably, with a notion of farther delay, thinking he might take up the other afterwards; but there he was deceived; for after his council & the managers had been heard, the lords adjourned, & after a debate (between L^d Talbot, L^d Bath, & some others, on one side, & the High Steward & the D. of Bedford on the other), it was resolved, without a division, that the record should be read; which was done on their return to the hall, & closed the proceedings there for that day; but the lords afterwards resolved, in their own house, that Lord Lovat's council shou^d not be permitted to argue against, nor produce witnesses to falsify a record of the court of King's Bench.

“ With this the High Steward acquainted Lord Lovat the next day, & the managers then entered upon Mr. Murray's examination, by desiring him to give the lords an account of what he knew in relation to the designed invasion in 1743, & the plot formed in concert with it, & which their first article charged the prisoner at the bar with being concerned in. Murray then began to relate the first steps taken towards this conspiracy, & among other things gave the substance of several conversations between him & L^d Traquair, in one of which my lord had told him, that he had been endeavouring to procure such assurance as had been desired from the

Pretender's friends in England ; that he had had frequent meetings with some of them, & named Lord Barrymore, S^r John Hynde Cotton, & Sir Watkin William Wynne ; that S^r John Cotton, particularly, was very shy in his behaviour upon the subject. He was going on, when L Talbot stood up in a rage & interrupted him ; said the witness shou^d not be suffered to proceed ; that this was only a hearsay story ; that the evidence was calumniating persons he had the highest regard for, & things of this sort. This produced great altercation between him & the managers, & ended in their telling Murray that he need not in the rest of his relation name any person that was not essential to his story, till he came directly to the prisoner at the bar. He then went upon the rise & progress of the late rebellion, & in the course of his examination, other accidents produced more disputes, & the heat of the person I have named as the interrupter, was with difficulty kept under. Murray, however, behaved most amazing well, neither bold, nor daunted ; told his story, w^{ch} was very long, in the genteelst & fairest manner, & in the properest words ; & answered very perplexing questions with great cleverness & ingenuity. The other witnesses that were called after him, tho' necessary to making out the charge, are not worth giving you an account of.

“ Yesterday was the next day the court sat, when the manager entered upon the written evidence, & in support of *your* papers, (you understand what I mean by that appellation,) brought Hugh Frazer, the secretary, who was as extraordinary in his way as Murray ; very sensible & intelligent, tho' unwilling in his manner ; he proved the father having forced the son into the rebellion, & shewed great indignation at him for it. S^r Everard Faukener was also examined the same day, & by Mr. Yorke. And

here I must go out of my way to tell you what L^d Lovat said to your friend. He was asked whether he wou^d put any questions to S^r Everard, to which he answer^d no, & then, smiling turned towards him, & said, ‘*S^r Everard Faulkener, I am your very humble servant ; I wish you joy of your young wife.*’ Your own risible muscles will tell you how this was received by those who heard it. There were also some less important witnesses called yesterday, & in the course of the examination of one of them, L^d Talbot took up & misinterpreted some words of Sir Will. Yonge’s, who explained himself, but not to my lord’s satisfaction, so that the dispute rose to such a height that the High Steward was forced to interpose wth authority, & to declare that *the honourable manager was in the right*. If this had not put an end to the debate, there were great apprehensions that the Commons wou^d, on their return to their own House, have sent to demand satisfaction of the lords for this treatment of their manager, but the High Steward’s conduct was afterwards acknowledged with the warmest thanks by Sir William ; & the Speaker sent him his sense of it in the most pompous terms. I think these are the great traits of what has hitherto passed ; your accounts from better hands will supply what is wanting, but, I dare say, you have already heard enough to make you not wonder at the prisoner’s having one day kissed the noble peer I have so often mentioned. Lord Lovat’s behaviour is very inconsistent,—complaining of blindness & deafness, yet reading without spectacles, & hearing when it is convenient. In short, he seems to me strong enough to kill half his judges, tho’ he sometimes tells the lords he shall dye at their bar, & that if they will not give him a day’s rest, they may as well order his funeral. Before this despatch sets out, I shall be able, I believe, to send you

an account of Monday's proceedings. I must not omit mentioning that Princess Amalie attends constantly ; she has a little box made out of Lord Orford's Gallery. You will easily imagine that Murray's evidence makes a great noise, & it is not unlikely but it may have farther consequences. Two of the persons he named were absent, but our neighbour had affectedly placed himself in the first row of the Commons, & attempted to turn off what was said by a most audacious behaviour of grinning & laughing.

“ However, the next day there was a meeting of about 40 Tories, to consider of what they shou^d do upon the occasion, & it was apprehended they wou^d take notice of it in the House ; but as that has not yet been done, some people are disposed to surmise that they are afraid of making bad worse ; of which there does indeed appear to be danger, as this has certainly opened a new scene, & it is not easy to see where it will end. I shou^d have added to my account of Murray's evidence, that it was very material against the prisoner, proving that Lord Lovat was present at a meeting with Murray & several chiefs of the rebels a little while after the battle of Culloden, where it was proposed by my lord, & agreed to by the rest, to raise 3,000, or 3,500 men for the defence of the country against the King's forces ; that 400 of them were to be Frazers ; & that there were 70 Louis d'ors then given to a servant of my lord's to pay his men for 10 days. Murray's account was supported by Hugh Frazer's examination, which has made a great impression upon the hearers.

“ *Tuesday, March the 17th.*—As my letter cou^d not set out 'till this day, I determined to add yesterday's proceedings to those of the former days. There were a few

letters read, which were first proved by Robert Frazer, a secretary of Lord Lovat's, & Mr. Murray. Sir John Strange then summed up the evidence in a speech of about an hour long. The High Stew^d then asked the prisoner what he had to say in his defence ; he answered that he had several witnesses to produce ; that one of them was a member of the House of Commons, & he desired to know how he must apply to have leave for him to appear ; adding, that he wanted 4 or 5 days at least to prepare for his defence. The lords then returned to their own House, & sent a message to the Commons for leave that Mr. McLeod might be examined at their bar, (he being the person Lord Lovat desired to call for a witness,) & then not thinking it could be any way necessary to allow more time, as he had already had so much, they adjourned only till to-morrow. It is said Mr. McLeod turned quite pale on being thus summoned, & that he is very angry at Murray, for having said in his evidence, that he had delivered one of the Pretender's general letters of encouragement, (designed for his friends,) to him ; Macleod denies that the letter was delivered to himself, but owns it was given to somebody for him.

“ I have been talking a great while of what I do not understand, but I rely so much upon your indulgence to excuse me, that I will hardly mention in my own defence, that all the town errs in the same way at present.

“ The most affectionate compliments of all the family attend you, & my *Lord High Steward* ordered me to make many excuses to you from him, for his not having wrote to you, as he fully intended to have done, but that the business of his great office has prevented him. He returns many thanks for his maps, & desires to know

whether you wou^d have the money for them returned to you in Holland, or whether you will stay till you come home.

“Forgive me, my dearest brother, both for the length of this letter, & the defects of it in matter & manner; but it was impossible to think of writing it twice over; & if you shou^d not be able to read or understand it, your loss will not be worth regretting.” *

Lord Chancellor Hardwicke wrote also to Colonel Yorke about the same time that his sister did, and alluded to the important trial which then occupied him:—

“*Powis House, March 17, 1746.*†

“DEAR JOE,—Tho’ I directed your sister to tell you every thing I had to say, which you will think is very little, yet having a few minutes’ time, I snatch it to thank you for your kind letters & care of my maps, as well as to take shame to myself for having been so long silent. And yet I have not been dumb thro’ obstinacy, but only for reasons which you will easily suggest. The Commons have laid siege to old Lovat ever since Monday, the 9th instant, when they opened the trenches. When they will carry the place is uncertain. We have had stories of his intending to surrender at discretion, but those were false rumours, and to-morrow he is to make his grand sally. He has summoned M’Leod to be a witness for him, which occasioned much speculation. A prodigious strong evidence has been given for the Commons; but he is a strange tough old Highlander, always complaining of the weakness of his forces, but appears to be stronger than anybody. The Princess Amalie has done us the

* Hardwicke MSS., Wimpole.

† Ibid.

honour constantly to overlook & overhear us from my L^d Orford's gallery.

“By what we are told, this letter will probably overtake you just as you are taking the field. God send the Duke success & glory, & keep you in safety. I wish the Dutch & Austrians may have their contingents ready in time. For my own part, I have not liked the appearances from thence for some time, no more than from Turin. Wrangling about trifles, they lose great objects; & provided their subsidies are early paid, seem to regard little else. I shou^d be extremely glad to have an exact account of your strength & that of the enemy as soon as you take the field. If the French are in earnest to bring their king thither, I shall think they really mean to be very strong.

“But, having nothing to say & much to do, I must conclude with desiring you to put me at H. R. H.'s feet, with my most humble duty & most cordial good wishes; & with assuring you that I am ever,

“Dear Joe,

“Your most affectionate father,

“HARDWICKE.

“Distribute my compliments in due manner to all friends. I hope the Duke likes my Scotch bill, which cost me more trouble than I can tell.”

An elaborate and able report of the proceedings on Lord Lovat's trial is contained in the following letter from Mr. P. Yorke to Colonel Yorke, which bears date the 17th of March, and which, notwithstanding its recapitulation of some of the facts already detailed, I am induced, from its value, to give at length:—

“The tryal, at present, is our whole employment & conversation. It has already taken up 5 days, & as the

evidence for the Commons was closed yesterday, & a day's interval granted the prisoner to consider over the proofs ag'st him, this seems the most proper opening to write you some account of the proceedings.

“ The old traitor was brought to the bar on Monday was se'nnight, & after the court was formed, the articles of impeachment & the answer to them were read; & then S^r W. Yonge opened the charge of the Com'ons in a general way, showing the inducements they had to undertake this prosecution, on account of the rank & eminent guilt of the criminal, & for the sake of expressing the abhorrence w^{ch} the whole body of the Commons of G. B. entertained agst all the authors & chiefs of the rebellion. He then stated the three different sorts of treason laid in the articles, viz.: compassing the King's death, (for so y^e law calls every attempt to dethrone him,) levying war ag'st His M'ty, & corresponding with y^e Y. Pretender & his adherents. The 2 first are treasons by the famous Act 25th Ed. Tert., the last by the Act passed in 1744. He likewise enlarged upon & enforced the offences of the prisoner, rendered so atrocious by his obligations to the government, & his attempt to skreen himself at the expense of his eldest son. He was seconded in a few words by L^d Coke, who observed that he had twice seen this country in danger from a disbelief of Jacobitism, & that it was no wonder the prisoner was lost to all sense of the parental affections, when he had broke through the ties of allegiance to his Sovereign. Then the Attorney-Gen^l opened the evidence at large, & gave a distinct narrative of the facts w^{ch} w^d, in the course of it, be proved against the prisoner. He ranged them into 3 periods: the 1st, previous to the rebellion; the 2nd, from the Y. Pretender's landing to the battle of Culloden;

the 3rd, from that time to the taking of Ld. Lovat. Under the 1st head is included his signing an association in 1740 to restore the Pretender, & his receiving 2 commissions & a patent of dukedom from him. Under the 2nd head are comprehended his messages by Gortuleg & Hugh Frazer to the Y. Pretender after he was landed, his raising & sending out the clan, his forcing his son into the rebellion, & loading him wth the guilt of it by letters to the President. Under the 3rd head are included his interview with the Y. P. after the battle, his consulting with some of the rebel chiefs at Morligen to renew the war, his flying from place to place under the terrors of guilt, & his voluntary confessions after he was taken to different persons, w^{ch} show that he did not then make any scruple of owning himself to have been in the rebellion. The Attorney observed that when the parole evidence was gone through, we sh^d produce a series of letters & papers w^{ch} w^d corroborate & connect the testimony of our witnesses.

“Preliminaries being despatched, the evidence called was Rob^t Chives, of Munktown, Esq., a neighbour of L^d Lovat’s; and he proved very fully my Lord’s having talked to him of the commissions & patent he had accepted from Rome, his drinking success to the Association, & confusion to the White Horse & his adherents; his declaring to Drummond of Bochaladie, (who was going to Rome,) y^t he was ready to live & die wth y^e Pretender; his saying, when reading the Pretender’s declaration was objected to by the witness, that it was treason not to read it, & offering him (Chives) a commission in the rebel service; & also his threatening, if his men w^d not rise voluntarily, to bring down the M[’]Donalds to fire them. Then Rob^t Frazer, the sec^y, was produced; his evidence was very long & circum-

stantial; the amount of it proved that he had seen both the patent & commission of Ld. Lt. & Lt. Gen^l amongst Lord Lovat's papers; that the clan was raised by his directing; that he frequently blamed the master* for backwardness & want of spirit; that bell tents & colours were painted by his orders for the use of his men who were to join the rebels; that he (the witness) saw powder, shot, & bonnets distributed to them out of a store-room, whereof his Lord kept the key himself; that after the battle the Y. P. & Lovat had an interview at Gortuleg's, & the latter excused his not joining him in person on account of his age & infirmities, & they embraced & seemed very fond of each other; that he dissuaded his son from surrendering to the Duke, & said he did not think his spirit had been so mean; that in general Ld. Lovat was so absolute over his clan & dependents that it was impossible for any of them to take the least step with^t his knowledge & consent. When he withdrew, the l^ds were acquainted that he w^d be called again to prove the letters. L^d Lovat did not cross-examine either of them, but objected that they were his tenants & held lands of him, & that by an Act 1st Geo. 1st, it was provided that tenants & vassals of superiors in Scotland shd. not be examined as evidence ag^{'st} any one by whose attainder they were to receive benefit. We have avoided bringing that clause into debate, & called no witnesses that were really liable to the objection.

“ On the 2^d day, when we moved to examine Murray as to the general plot, as well as to what he knew of L^d Lovat's behaviour; the prisoner objected to his competency, because unless his surrender was proved before the Act of Attainder took place, he c^d be no witness

* The master of Lovat, Lord Lovat's eldest son.

against any man. The managers, to shew he was discharged of the attainder, desired leave to produce the record of the Court of King's Bench, whereby it w^d appear, y^t when Murray was brought up he pleaded his surrender before the term given in the Act expired ; that the Attorney-General by the King's command confessed the plea to be true, & thereupon the court declared Mr. Murray not to be within the Act. It was argued by Lovat's council on one side, & the gentlemen of the long robe who were managers on the other, whether the record sh'd be read ; it was urged by the former that the record might possibly be founded on a fact not true ; & that, unless the client was at liberty to disprove it, it wou^d be hard he sh^d be concluded by an act to w^{ch} he was no party ; by the latter, that there was no instance of rejecting the record of a court of justice ; that there were other cases where the attorney's confession had discharged an attainder in like manner ; that it was absurd to denie the Crown a liberty w^{ch} every other person had, of confessing the plea of an adverse party to be true, & that if Lord Lovat's objection was admitted, Mr. Murray wou^d remain under one consequence of an attainder, the incapacity of being an evidence, & free from every other, viz. sentence with^t tryal, &c., w^{ch} was a contradiction unknown to our law. The lords adjourned to the House upon this point, & had some debate on it, wherein my lord * spoke with his usual weight for reading the record, & admitting Mr. Murray ; & Ld. Bath made an inflammatory speech ags^t such a power in y^e Crown, as discharging an attainder by a confession of the attorneys, & then they returned to West. Hall, & the record was produced in evidence ; after which Ld. Lovat desired leave to disprove it, w^{ch} being a thing never suffered, the

* Lord Hardwicke.

lords resolved with^t debate to refuse. Before they notified the resolution to the prisoner, he had sent by advice of his council to give it up. *

“ On the 3rd day, Mr. Murray was sworn, & gave an account of what had come to his knowledge relating to the conspiracy w^{ch} preceded the rebellion. That in 1743, Ld. Traquair informed him of an association signed 3 years before by himself, Ld. Lovat, Ld. Jno. Drummond, Ld. Perth, young Lochiel, S^r James Campbell of Auchterbreek, & Mr. Stuart, brother to Ld. Traquair, for restor^g y^e Pretender, & sent by Drummond to Paris & Rome. That when he saw the Pretender’s son in France on his 2^d journey there, in 1744, he heard of this association from him, w^{ch} he supposes was in the hands of the French ministry. That L^d Traquair told him he had conversed with the Pretender’s friends in England ab^t an attempt in his favour, particularly with Ld. B——re, Sir J. H. C——n, & Sir N. W——w; that they were ag^t setting their hands & seals to anything, but gave assurances in case of assistance from abroad. Here the witness was interrupted in a violent manner by Ld. Talbot, who insisted that he shd. not be permitted to asperse such honourable persons on hearsay, & speak only to his own knowledge. He proceeded to relate in what manner the Y. P. landed in Scotland, ag^t his advice & that of other friends there. Gortuleg, Ld. Lovat’s factor, came to him, as the witness understood from my lord, ab^t the 2 commissions, w^{ch} the Y. Pretender ordered Kelly to make out for him under his authority as Regent. That in March 1746, he received, at Inverness, a treasonable

* “ To explain this matter to you, the fact is, y^t Murray was taken several days before the act took place, & as a man in custody is amenable to justice, the equitable construction of such act is, that being apprehended before the term expires, is considered as equivalent to a surrender.”

letter from Ld. Lovat by the hands of Gortuleg, dated the Nov^r before, w^{ch} by various accidents did not come to his hands till then ; & when the letter was shewn him, he acknowledged it to be the same. He also mentioned Lord Lovat's being present at a council held by some of the rebel chiefs at Morligen after the battle, & proposing to raise 400 Frazers under the command of his son, for whom he desired Loehiel to answer, & that he received 70 Louis d'ors out of the French money to send his son for that purpose.

“ Hugh Frazer of Dunballock, the next witness said, he heard Ld. L——t promise a gratuity to the women whose husbands went out wth the master, & that when he was told by Barrisdale & others at his own house y^t things w^d go better, if he threw away the mask, then he flung his hat upon the ground, stamped upon it, & said there it is.

“ The principal evidence produced the 4th day, was Hugh Frazer, formerly sec^y to Lovat : he gave his testimony with reluctance, yet wth great regard to truth, & his principal inducement to do it, was, in order to bring off the master, whose Capt. he had been. He gave an account of a proposal made to Ld. Lovat by one Wm. Frazer, writer to the signet at Edinburgh, soon after the rebellion broke out, to send the young man to pursue his studies abroad, w^{ch} my lord, (tho' it was not to be at his expense,) refused, & said he wanted his son to put himself at the head of the clan, & he sent this H. Frazer wth a message to the Y. P. at Edinburg^h, to excuse his not appearing for him in person on acc^t of his ill state of health, but that the master shou^d join him wth the clan. That on the witness's return to Castle Downie, the men were rendezvouzed ; & tho' my lord was at times irresolute whether they shd. march or not, & gave contra-

dictory orders, yet before he was taken up by Ld. Loudon, in a conversation when Hugh Frazer was present, my lord was positive for their going, & told the master who complained of being made a tool of, that he had his last orders, & w^d never depart from them. I shd. grow too prolix in mention^g a variety of other material circumstances in this man's evidence concerning my l^d's conduct, and the behaviour of the clan; those I have set down affect him directly, & the rest you may stay for till the tryal comes out. To the meeting at Morligen, the 18th May last, we had Jno. Farquair, a ser^t to Murray, who was an ear witness to Ld. Lovat's zeal for bringing the men together again, & to his sorrow for not having joined the Y. P. at his first landing. Ch. Stuart, one of Murray's clerks, spoke to the same effect, only he said, the prisoner, with his usual craft, declined sign^g an engagement w^{ch} was prepared at that consult, & said he was a neutral person, but desired Lochiel to answer for his son; the witness himself paid 70 *Louis* to a servant of the prisoner's, for the subsistence of those Frazers whom the master was to assemble.

"We had likewise evidence from L^t Dalrymple, that Ld. Lovat, after he was taken, alledged as a motive for his conduct, the injustice w^{ch} he pretended had been done him by the ministry in taking away his company; & that if the Pr. son had followed his advice, he w^d not have fought, but retired further North amongst the hills, & there kept the Duke in play till succours came from France. Sir E. Faulkner closed our rear of evidence, wth saying that Ld. L. declared to him, he w^d have joined Kouli Kan to be revenged on the ministry, & that he was—

"In utrumque paratus:—

Seu versare dolos, seu certæ occumbere morti."

“Then the managers produced their written evidences, consisting of letters to the Y. Pr., Murray, Lochiel, and the master, full of the strongest & most virulent treason that can be imagined, & all sworn to by R. Frazer, who saw my lord sign them, after having dictated every word of their contents to him. Most of these you know were given up by M^{rs} Davies, except one from the son, w^{ch} we proved by Captⁿ Duff, & one Campbell, to have been found in Lovat’s strong box ; & to this letter, the famous one from the father, (where he mentions the association, the patent, & commissions, & says he had done ags^t the government more than w^d hang 50 lords, & forfeit 50 estates,) is an answer.

“On the 5th day, we read a few more letters, & Sir Jn. Strange summed up the evidence for the Commons, very fully & strongly. Then the old culprit desired 4 or 5 days to prepare for his defence, but the lords only allowed him one. What sort of one he can make that can have the least appearance of truth, & common sense, agst the clearest & most circumstantial evidence that perhaps ever was produced in a case of h. treason I cannot imagine. His whole view seems to be, the gaining a few days more life, & he frequently complains of his infirmities, but he hears very well, & can answer quick enough when he pleases. He made the court laugh, by telling our friend Sir Everard, that he was his humble servant, & wished him much joy of his young lady. Nobody seems to interpose in his favour but Ld. T——t, who has asked questions of the evidences, as whether they expected pardons from swearing agst the prisoner, & keeping up to their former examinations. A little sharpness arose one day between him & Sir W. Y. but the Lord H. Steward interposed, & checked the former, who has been quieter since. His stopping Murray is

much remarked upon you may be sure. I think this tryal will make a fine appearance in print, & do good amongst the people. The Jacobites rail at Murray, but are alarmed at what has appeared, & what they suspect to be behind." *

In another letter to Colonel Yorke, dated 24th March, Mr. P. Yorke sends him an account of the conclusion of this important trial.

"As I have already troubled you wth a long acc^t of the first part of Lovat's tryal, you may take the conclusion of the story from me too, w^{ch} may be comprised in much fewer words. When he was brought to the bar on Wednesday last, instead of attempting any defence by witnesses, he gave in a written speech, w^{ch} was read by the clerk, wherein he abused our evidence, particularly Murray & Rob^t Fraser, & complained that his own had been hindered by extraordinary methods from coming up, & argued ag^{'st} the fitness of admitting accomplices in guilt to become witnesses, with^t a previous pardon. This sort of defence c^d furnish little matter for a reply; however, the solicitor,† whose province it was, spoke after him, & showed under what species of treason the different overt acts fell, w^{ch} had been proved ag^{'st} the prisoner in the course of the tryal. He also showed how the general evidence of the plot was confirmed by the letters, & vindicated the competency of the witnesses. Lovat had afterwards a mind upon a qⁿ of L^d Talbot's, to call 2 witnesses to prove the restraints laid in Scotland upon some of his own, but this was opposed by the managers as irregular in point of time after they had finished their reply, & unnecessary to y^e prisoner, whose innocence c^d not be cleared by such evidence. The truth is, that, in

* Hardwicke MSS., Wimpole.

† The Hon. W. Murray.

2 petitions he gave in before his tryal, he set forth y^t some of his witnesses were sick, that others refused to come so long a journey, & prayed for further time on that score, but intimated not one word of any restraint on the part of the King's officers in Scotland. He had 17 witnesses in town, but did not think fit to call any of them. The lords found him guilty that day ; & the next (Thursday) he was brought down to receive sentence, when being asked if he had anything more in arrest of judgment, he again enlarged upon his services in the year 1715, eomplimented the D. of A——le, talked of his gratitude & attachment to his dear master the late King, & his respect for the present, but with^t asserting either his innocence or repentance. I thought his tale a tedious one, but what last dropt from him was a key to the whole, viz. that if his company had been left him, there had been no rebellion—*i. e.* he had never joined in one. I shall say nothing of my lord's oration. You have it in print. It speaks for itself. When the old rogue recommended himself to mercy, it was highly indecent in him not to say a word of his son ; upon the whole his behaviour has been with^t dignity & decorum, & calculated to carry to his grave the general odium w^{ch} the infamy of his character had acquired.”*

The following is the address, alluded to in the foregoing letter, which was delivered by Lord Hardwicke, as Lord High Steward, on the occasion of his passing sentence of death upon Lord Lovat. It must ever be regarded as one of the finest specimens, probably the most perfect model of judicial eloquenc^e extant, whether we consider the strict propriety of the sentiments it contains, the forcible but yet feeling manner in which it points out

* Hardwicke MSS., Wimpole.

the position of the unfortunate and degraded culprit, and the mode in which dignity, justice, and humanity are here blended together.

It is taken from the manuscript copy in Lord Chancellor Hardwicke's own handwriting.

“ SIMON, LORD LOVAT,

“ You have been impeached by the Commons of Great Britain, in Parliam^t assembled, of high treason, charged upon you by particular articles, containing different species & various overt acts of that treason.

“ To these articles your lordship thought fit to put in an answer, amount^g to a general plea of Not Guilty to the whole ; & after a long & impartial trial, upon the clearest evidence & most convinc^g proof, your peers have found you guilty.

“ What remains is the disagreeable but unavoidable part of proceeding to that judgment which is the necessary consequence of such atrocious crimes. Happy had it been for your lordship, if, before you engaged in them, you had suffered the terrors of that consequence to have their effect, when the sacred ties of your allegiance & your oaths were not strong enough to restrain you.

“ In this proceed^g the zeal & dutiful affection of the Commons to His Majesty & their country, & the justice of the House of Peers, have shone forth in their full lustre. The Commons found your lordship to be one of the principal conspirators to bring about the late detestable rebellion, to destroy our religion & liberties, & to subvert that legal settlement of the crown, in His Majesty & his Royal Family, under which alone we can live free & happy.

“ They rightly judged that this, which is the common cause of all the people of G^t B^a, ought to be prosecuted

by the united voice of the people : that it became them to investigate & lay open in full Parliam^t the source of those calamities which we have lately suffered, & the deep laid & long meditated conspiracy in which your lordship, with several others, had so considerable & so flagitious a part. They rightly judged that no judicature was equal to such an important proceeding but this high court, on whose penetration & justice they relied, & before whom, in this great assembly, public & indubitable satisfaction might be given.”

The following passage appears only in the printed report of the trial :—

[“ Before your conviction, I have spoken to your lordship upon a presumption of your innocence ; but now I am bound, by the unanimous decision of my lords, your peers, to take the evidence against you to be true, & to address myself to you as a guilty person.”]

The MS. report then proceeds thus :—

“ Your lordship has, in your answer, endeavoured to avail yourself of former services to his late Majesty, & the Protestant succession, which you have this day enlarged upon at the bar. How unfortunate have you been in referring back to such cancelled merit, since thereby you have furnished an opportunity to the Commons, to show how long a tract of time you have conceived & nursed up this treason in your heart. Whatever your pretences were, so infected was your mind, & so forward your zeal, in the cause of that Pretender, whom you had then abjured, as to engage in that rash & weak attempt from Spain in his late Majesty’s reign, in the year 1719. Yet, at, or very near that time, it appears by the evidence, (out of which every observation I will make shall

naturally arise), you were soliciting & accepting favours & trusts from that very Government which you had thus engaged to destroy. What use did you make of those trusts? The instance of Roy Stuart, now an attainted rebel, speaks it too plainly. Whilst you were sheriff of the shire of Inverness, the largest county in Scotland, & one of the greatest consequence, you suffered that criminal, in the year 1736, to escape out of your publick prison; harboured him afterwards in your own house; then charged him with messages & assurances of fidelity to the Pretender; & to procure for you a commission of lieutenant-general, & a mock title of honour, from that pretended prince.

“If any thing could surpass this treachery, it is the association, which your lordship, with other persons, signed & sealed, in 1739, & sent to Rome, & Paris, by Drummond of Bochaldie, in the beginning of 1740. The substance of this was, to assure the Pretender, whom you always called your lawful King, of your readiness to appear openly in arms for his service, & to solicit an invasion from France, ag^t your native country, to support this flagitious design.

“It should seem, by the evidence, that the foreign enemies of Britain were less forward in this measure to disturb her, than her degenerate, unnatural sons. Whether that reluctance proceeded from a distrust of so false a set of men, or from a conviction that the body of this great people was not to be shaken in their loyalty to a king, who possesses the throne by the most rightful title, & governs them in justice and mercy, according to their laws & constitution; in either case they were in the right. What dependence could the court of France have on a few abandoned traitors? What hopes co^d they entertain that a general infatuation wo^d, on the sudden,

seize & delude a brave, a free, & a happy people, to seek their own slavery & ruin?

“From this time, till the year 1743, the conspiracy lingered in its progress, tho’ great efforts appear to have been made to render it more extensive, & more formidable. Then it happened, as it always has happened, that when France saw such an enterprize, whether successful or not, might be made a convenient engine of her own politics, that court set about an invasion in earnest. Great preparations were made, & ready at Dunkirk; but the providence of God disappointed them. To be capable of proving transactions of this kind, by strict evidence in the forms of law, is not common, nor, in the nature of the thing, ordinarily to be expected. But this the vigilance of the Commons has effectually done, to the conviction of all well-intentioned persons, & to the shame & confusion of those, who, tho’ they believed, & perhaps knew it themselves, were industrious to propagate a pernicious incredulity in others.

“Thus the Commons have traced & brought down the series of the conspiracy to the remarkable æra of July, 1745, when the eldest son of the Pretender landed in Moidart, unsupported by any foreign troops, unattended, & almost alone.

“The appearing rashness of this attempt, gave rise to some apprehensions, some misgivings, in the breasts of your lordship, & your fellow-conspirators, proceeding from a concern, not for the King, or for your country, but for your own private interest and safety. A French invasion had been long solicited; a French force was depended on, to secure you against the just vengeance of your native country; & the failure of that damped your hopes, & produced your expressions of disappointment. However, such was your zeal, that in this rash

enterprize your lordship joined ; not, indeed, personally, (this you often excused, complaining of your infirmities,) but by sending, or rather forcing out your clan ; & committing every other species of the blackest treason, which the articles of impeachm^t have charged you upon.

“ Permit me to stop here a little, to lament the condition of part of this United Kingdom ; happily united in interests both civil & religious ; happily united under the same gracious monarch, & the same publick policy. And yet, the common people in some of the remote northern counties, are still kept in such a state of bondage to certain of their fellow-subjects, who, contrary to all law, & every true principle of government, have erected themselves into petty tyrants over them, as to be liable to be compelled into rebellion agst their lawful sovereign, under the peril of fire and sword. Astonishing it is, that such a dangerous error in government, such a remain of barbarism, should have subsisted so long in any quarter of this civilized, well-governed island ; but, since such is the misfortune, let it be accounted one good fruit of this inquiry, that it has appeared in this solemn manner. The knowledge of the disease shows the way to the cure ; & it calls aloud for a remedy.

“ This usurped power was audaciously made use of over your clan. ’Tis true, your lordship’s activity in exerting it rose & fell, in proportion to the appearances of the good or bad success of the Pretender’s cause. But after the advantage gained by the rebels at Preston Pans, which you vainly called ‘ *a victory not to be paralleled in history,*’ you thought it time to *throw off the mask*, &, with less caution, to espouse a party which you then hoped might be espoused with impunity.

“ I forbear to enumerate the many overt acts of your treason. It would be tedious to this assembly, who

have heard them so much better from the witnesses, & from the recapitulation of the managers. It would be grievous to your lordship, if your heart is, by this time, touched with any remorse for your guilt. But one thing I cannot help observing upon,—the excuse you expressly made for this traitorous conduct, even after you were taken prisoner; to which you have this day artfully endeavoured to give a different turn. Being asked how you could act such a part against a government from which you had received many favours, your lordship's answer was, '*That it was in revenge to the ministry, for their ill usage of you, in taking away your commission of captain of an independent company of Highlanders.*' An excuse almost as *false* as it was *profligate*! *False*, because some of your treasonable practices were committed whilst you were possessed of that very commission. *Profligate* it was in the highest degree. Is allegiance no duty? Are oaths to His Majesty & his government no obligation upon the conscience? Is loyalty to our lawful Sovereign, & the love of our country, to depend on the enjoyment of extraordinary favours & emoluments, which no man has a right to; can, in the nature of things, be enjoyed but by a few; & are in the pleasure of all governm^{ts} to confer or deny? A person actuated by, & avowing such principles as these, must be lost to all sense of virtue & of shame, & of every natural as well as civil sanction of society.

“ Sorry, very sorry, I am, to see this last reflection so strongly verified by the proofs agst your lordship. It has appeared that you used your paternal influence over your eldest son, a youth not above the age of 19, to compel him to go into the rebellion; & afterwards unnaturally endeavoured to cast the crime, & reproach of it,

upon him. If this be true, 'tis an impiety which makes one tremble. It is the celebrated saying of a wise writer of antiquity, & shows his perfect knowledge of human nature, '*That the love of our country includes all other social affections ;*' for we see, when that is gone, even the tenderest of all *affections*, the parental, may be extinguished with it.

"I have said these things, not with a view to aggravate your lordship's crimes, but as becomes this place, & this occasion, to rouse your mind, which, there is reason to fear, may have been too much hardened, to a just & deep sense of your unhappy & dreadful situation.

"Were I to attempt this from topics of religion, I should be at a loss whether to apply to you as a Protestant or a Papist. Your open profession, your solemn oaths & public actions, speak on one side ; but, if I am to believe the evidence, your private discourse & declarations testify on the other. I will apply no supposit^{ns} on this head particularly to your lordship ; but from hence I wo^d draw an instructive lesson, which well deserves the attention of this whole nation, of what important consequence it is to preserve not only the name & outward form of the Protestant religion amongst us, but the real uniform belief & practice of it. Indifference to all religion prepares men for the external profession of any ; & what may not that lead to ? Give me leave to affirm, before this great assembly, that, even abstracted from religious considerations, the Protestant religion ought to be held in the highest reverence, as the surest barrier of our civil constitution. Ecclesiastical usurpation seldom fails to end in civil tyranny. The present happy settlement of the crown is, in truth, & not in name only, *the Protestant succession*. And the

inviolable preservation of that wise & fundamental law, made since the Revolution, whereby every Papist, or person marrying a Papist, is absolutely excluded from inheriting to this Crown, will, in future times, be a solid security for our posterity, not only ags^t the groundless & presumptuous claim of an abjured Pretender and his descendants, but also to prevent this kingdom from becoming a province to some of the great Popish powers, who have so long watched for the destructⁿ of our liberties.

“ But, to return to your lordship. Suffer me to exhort you, with great earnestness & in great charity, to deliberate seriously upon your own case, & to deal impartially with your own conscience. If, according to the evidence given at this bar, you have led a life of craft, dissimulatⁿ, & perfidy, consider how that scene has closed ; what desolatⁿ you have thereby endeavoured to bring upon your country ; how fatally it has ended for yourself. Consider, that the sentence which I am obliged to pronounce may soon send you to a tribunal, where no disguise or artifice can avail you.

“ The sentence of the law is, & this High Court doth adjudge—

“ That you, Simon Lord Lovat, return to the prison of the Tower, from whence you came ; from thence you must be drawn to the place of execution ; when you come there, you must be hanged by the neck, but not till you are dead, for you must be cut down alive ; then your bowels must be taken out, & burnt before your face ; then your head must be severed from your body, & your body divided into four quarters, & these must be at the King’s disposal.

“ And God Almighty be merciful to your soul.”*

* Hardwicke MSS., Wimpole.

The following observations were afterwards made by Lord Lovat:—

“ *Lord Lovat.*—My Lords, I hope your Lordships will not take it amiss that I should let you know, though it be in very barbarous language, both the affection I had for his late Majesty, and the service I did for him and his family.”

He then reiterated what he had several times before urged on this head, and concluded by saying—

“ Therefore, all that I have further to say, is most humbly to implore your Lordships’ intercession, and to recommend me to His Majesty for mercy.”

“ *Lord High Steward.*—Have you any thing further to offer?”

“ *Lord Lovat.*—Nothing, my Lords, but that I make the same prayer to the honourable the members and managers of the House of Commons; and that, I hope, as they have been stout they will be merciful.”

“ *Lord High Steward.*—Would you offer any thing further?”

“ *Lord Lovat.*—Nothing but to thank your Lordships for your goodness to me. God bless you all, and I bid you an everlasting farewell. We shall not meet all in the same place again, I am sure of that.”*

After this Lord Lovat was taken back to the Tower.

His behaviour throughout his trial appears to have been at once unbecoming and indecorous, and such as even to prejudice his cause in the eyes of the audience.

“ On the first day, in Westminster Hall, observing Mr. Pelham at some distance, he beckoned him towards him:—‘Is it worth while,’ he said, ‘to make all this fuss to take off the grey head of a man of fourscore years old?’ The same day we find him flying into a violent passion with one of his Highland retainers who had been brought as a witness against him; and on another day, when asked by the High Steward if he had anything to say to Sir Everard Falkener, who had just been examined—‘No,’ he replied, ‘but that I am his humble servant, and wish him joy of his young wife.’ To Lord Ilchester, who sat near the bar, he observed—‘*Je meurs pour ma putrie, et ne m’en*

* Trial of Lord Lovat.

soucie guéres. ‘The two last days,’ writes Horace Walpole to Sir Horace Mann, ‘he behaved ridiculously, joking, and making every body laugh even at the sentence. I did not think it possible to feel so little as I did at so melancholy a spectacle; but tyranny and villainy, wound up by buffoonery, took off all edge of concern. The foreigners were much struck.’”*

Horace Walpole states,† that the first day Lord Lovat was brought to trial, a woman looked into the coach and said, “You ugly old dog, don’t you think you will have that frightful head cut off?” He replied, “You ugly old —— I believe I shall.”

The same writer also tells a story of Lord Lovat,‡ that he had two servants who married without his consent: he said, “You shall have enough of each other;” and stowed them in a dungeon, that had been a well, for three weeks.§

On the 22nd of January, 1747, Lord Chancellor Hardwicke acquainted the House of Lords that he had received a letter from the Lord President of the Court of Session in Scotland, mentioning that the Lords of Session would prepare a bill for the regular administration of justice in the King’s courts there.

On the 17th of February, the Lord Chancellor brought in a bill for abolishing the Heretable Jurisdictions in Scotland. His speech on this occasion his Lordship caused to be printed for the use of his friends. The sums claimed from Government, as an equivalent for these hereditary jurisdictions, amounted to upwards of £600,000. Several other preventive laws with regard to Scotland and the attainted persons concerned in the late rebellion were passed this session; but the whole was closed by an act for the King’s most gracious, general, and free pardon.

* Memoirs of the Pretender, &c.

† Letters to Sir H. Mann.

‡ Ibid.

The correspondence between the Chancellor and the Duke of Newcastle appears to have been almost entirely suspended during the rebellion. But this was probably owing to the constant personal intercourse which at this perilous juncture must have taken place between these two great state ministers. In the month of February, 1747, the following letter was addressed by the Duke to Lord Hardwicke on the subject of the misunderstanding between the King and the Prince, which even the rebellion had been found ineffectual to terminate, but which it was now proposed to endeavour to put an end to by measures of kindness and conciliation; for which purpose the Chancellor was requested to prepare in fit terms a draft of a message from the King to the Prince, which was to be submitted for his approbation to His Majesty. From the note appended to this letter it does not however appear that any satisfactory result was obtained by this proceeding.

*“Newcastle House, Saturday Morning.**

“MY DEAR LORD,—Having *some* reason to believe that the King may possibly be induced, to send a proper message to the Prince, upon the present occasion, in the manner proposed the other night by my brother, supported with authority & dignity, & a proper animadversion upon his present conduct, representing the fatal consequences of it to his family, & his countrey, in a time of publick distress, so soon after a rebellion, & during a war attended wth such expense & difficulty: but accompanied at the same time with expressions of tenderness & concern, and proper assurances of forgiveness, in case of a thorough alteration of behaviour, I must desire your lordship would be so good, as to put some-

* Hardwicke MSS., Wimpole.

thing in writing for that purpose, to be considered & adjusted, if we shall think things in a situation to make use of it. Something like this will certainly be expected by the best intentioned, & cannot be blamed by the worst. I would submit whether mention should be made of the King's having done every thing on his part, to make the P. easy, & consequently that can have no colour of complaint. I would also submit whether any thing should be said relating to y^e education of y^e eldest son, y^e time for which is coming on. I shall be much obliged to you, if you could send me something, to my office on Monday morning.

“I am, my dear lord, ever yours,

“HOLLES NEWCASTLE.”

The note which follows was written on this letter by the second Lord Hardwicke :—

“N. B.—I never heard at the time of this intention : nor do I *now* know, what occasioned, or what put it off. Happy wd it have been, had the ministers had courage to have executed it, or particularly what relates to the education of P^r George. H.”

Mr. Charles Yorke, in a letter to Colonel Yorke, dated April 13th, 1747, gave the following account of the introduction into the House of Lords of the Heretable Jurisdiction Bill :—

“The Jurⁿ Bill was opened in the H. of Lords, with very general applause. The Lords of Session, by their returns to the two resolutions of the House, transmitted to them by the Chancellor, in August, had assigned several reasons to show the great purpose of it improper and impracticable ; that is, the taking away of the Heretable Jurisd^{ns}, & distributing justice by the Kings Courts

& Judges. L^d C.,* therefore, took it into his own hands, & prepared the draught of a bill, by w^{ch} the Her. Juris^{ns} were to be entirely abrogated, with a compensation to the prop^{rs}, & certain new regulations to be made in the sheriff's courts, & for the circuits. Upon the printing of this bill, w^{ch} was planned with^t any assistance from Scotch lawyers, a resolution being shewn to have no private regards for the interest of the great men in Scotland, the lawyers of y^t country then tho't it their duty to contribute towards perfecting the new scheme. By the acc^{ts} I have heard, it seemed to the ablest of them liable to two objections: 1st, in respect of the compensations to the Barons, w^h w^d swell the expense to a vast amount, at the same time that their jur^{ns} are mostly dormant; yet every man who has a landed es^t of £50 pr. an., being possessed of, or pretending to such a right, w^d have come in & claimed the money, setting an imaginary value upon it; 2nd, in respect of the necessity there is, in many parts of the country, to leave a jurⁿ in many petty trespasses & offences, & in civil contests to the value of a sheep or a cow, between tenant & tenant. The leaving this kind of jurisdiction, it was suggested, w^d but leave to the barons such powers as jus^{ts} of peace have in Engl^d, & every little gentleman w^d be upon the same footing, in this point, with the greatest lord in that kingdom; so that the general policy of the bill w^d not be hurt by such an alteration, in regard to the authority of barons & heretors of land; whilst all higher jurⁿ of every kind was restored to the Crown, & the King's courts. L^d C. therefore consented to the alteration proposed, & the consequence of it will be, not only to make the bill more popular in Scotland, & agreeable to the sense of the lawyers, but will clear away that great diffi-

* Lord Chancellor.

culty, (which indeed weighed with every body,) arising from the making a satisfⁿ to the barons, for what is taken from them, who will now have none. After the first reading in the H. of Lords, it was suffered to sleep there, by reason of the money clauses, w^{ch} the Commons w^d never have received. And it has since been brought into the H. of Commons, wth this altera^{on}, w^{ch} I have stated to you, & some others in minuter parts of the bill, w^{ch} I will not attempt to explain to you. There is a considerable opposition raised against it, consisting of the tories & jacobites, & Scotch. They say it is a violation of the Treaty of Union, & will neither be expedient nor effectual. Those of the Scotch, who pretend to be the best affected towards it, doubt w^r it will signify any thing. But there cannot be a better presumptive proof to the contrary, than the reproaches which old Lovat made the other day to S^r H. Monro, & Lodovic Grant, on their voting for it on a first reading. ‘Don’t you know,’ said he, ‘that our highland estates will now become good for nothing?’ What co^d be the meaning of these words but this, that he knew when once the sources of influence & authority over the people, (of which this is a principal,) were destroyed, that the great men of Scotl^d w^d not be able to make such good terms at court for the future, as they have been used to do? 19 Scotch in Kg’s service voted with the minority agst so much as reading the bill a second time, young Jaek C. amongst them, & the old one away. This tends to raise some resentm^t among the honest at their chief. The squadron of a certain court take no part as yet: but it is imagined they will to-morrow, & agst the bill, too, if it can be made a strong point for a division. People not expecting any debate on the first reading, the House was thin that day, & it was with^a 10 or 15 of being

thrown out. I hope it will be better attended to-morrow, otherwise the Government will be ruined merely by its own negligence.”*

In the *Annual Register* before quoted from, are the following observations respecting Lord Chancellor Hardwicke's conduct with regard to this measure:—

“The part which he acted in planning, introducing, and supporting the *Bill for Abolishing Heretable Jurisdictions in Scotland*, and the share which he took, beyond what his department required of him, in framing and promoting the other bills relating to that country, arose from his zeal for the Protestant succession, his concern for the general happiness and improvement of the kingdom, and for the preservation of this equal and limited monarchy, which were the governing principles of his public conduct through life. And these, and other bills which might be mentioned, were strong proofs of his talents as a legislator.”

Mr. P. Yorke, in one of his letters to Colonel Yorke, thus speaks of Lord Hardwicke's efforts on the occasion alluded to:—

“My lord has got great credit by his speech on bringing in the bill to abolish heretable jurisdictions, & vest them in the King's courts. I must refer you to Charles for an account of it, for I had the misfortune to be hearing a much worse subject in the House of Commons.”†

The same letter contains an account of an early professional effort of Mr. Charles Yorke, which will be read with interest:—

“I can acquaint you, with no little satisfaction, that Charles has made his appearance, in a cause before the Lords, greatly to his credit. Every body commends his pleading. It was material to the point in issue, handsomely worded, & spoke with becoming assurance. My Lord was much pleased with it, & you know he is not flippant of his commendations.”

* Hardwicke MSS., Wimpole.

† Ibid.

Lord Chancellor Hardwicke's fourth son, John Yorke, was about this time admitted a student of Lincoln's Inn.

A letter of Mr. Charles Yorke, which was written to Colonel Yorke in April, gives an account of the following extraordinary proceeding and inquiry:—

“You must have heard, I fancy, of the inquiry, referred in the House of Commons to the Committee of Managers, into the riot amongst the independent electors of Westminster, at Vintners' Hall, where they beat a man almost to death, & turned him out of the company, for harbouring Hugh Fraser, one of the principal witnesses against Lovat, & his secretary. This was introduced by S^r W. Yonge & L^d Coke into the House, with^t much previous concert, or having examined any other persons to make out the ground of their motion, than the man himself who was beat. The evidence, therefore, proving defective, it was thought best to let the inquiry drop. One is sorry it was taken up at all, because I w^d never have so extraordinary a weapon lifted agst faction with^t giving a proper blow.”*

On the 3rd of April, 1747, complaint was made in the House of Lords against Edward Cave and T. Astley, for printing the trial of Lord Lovat, Lord Chancellor Hardwicke's speeches on that occasion, and the debates of the House, in the Gentleman's and London Magazines. On the 7th of April, Astley petitioned the House for his release, promising not to offend in future. They were both brought to the bar and examined. On a subsequent day Cave and Astley were discharged, after a severe reprimand by the Lord Chancellor.

* Hardwicke MSS., Wimpole.

Mr. Charles Yorke, in a letter to Colonel Yorke, afforded some particulars of Lord Lovat's conduct at his execution, which took place on the 9th of April. The warrant for this is among Lord Chancellor Hardwicke's papers.

“ Old Lovat's behaviour at his execution was suitable to the rest of his whole life. Insensible to the terrors of death, or intrepid (if you will), with^t dignity or true firmness. He called for the axe, as soon as he was brought upon the scaffold, & felt with his fingers round the edge of it, & then told the executioner he believed it would do, exhorting him not to mangle him, Lovat, as he had done old Balmerino. He spoke a few words to the people ab^t him, declaring that he died a Roman Catholic & a Jansenist; that he had been uniformly loyal to the rightful king, nor ever betrayed his cause; that he had injured no man in the course of his life; nor anything, not so much as a hired horse had been fretted by him.”*

From a memorandum in the handwriting of Lord Chancellor Hardwicke, it appears that the following paper was delivered by Lord Lovat to the Sheriff's on the scaffold:—

“ *April 9, 1747.*†

“ As it may be reasonably expected I should say something of myself at this place, I declare that I die a true (but unworthy) member of the Holy Catholick and Apostolick Church.

“ As to my death, I cannot but look upon it as glorious, seeing I fall a sacrifice to the tyrannick laws of this country, which ought to have no jurisdiction over

* Hardwicke MSS., Wimpole.

† Ibid.

me by the articles of the Union, so that I die a victim for my principles, for my King, & for my country.

“I sincerely pardon all my enemys, from the highest to the lowest, whom God forgive, as I heartily do, & I die in perfect charity with all mankind; I sincerely repent of all my sins, & firmly hope to obtain pardon & forgiveness of them through the infinite mercy of Almighty God, & the merits & passion of my blessed Lord & Redeemer Jesus Christ, into whose hands I recommend my soul. Amen. “LOVAT.”

The character of Lord Lovat was exhibited throughout his whole conduct in life. His conversations, his letters, his behaviour and speeches on his trial, each moreover coincided to confirm the opinion of him which his entire course served, consistently at least, to establish. He was a master in the art of dissimulation, and a traitor of the worst and basest kind. One of the most pitiable and degrading instances ever exhibited, is seen in his case of honour, truth, principle, patriotism, and even family affection, being laid prostrate before the shrine of avarice and ambition. A Catiline, without the bravery which in some measure exalted the career of that famous desperado, what Lord Lovat lacked in courage was made up by his cunning; and the end of all his unprincipled machinations was but too evidently not his country's good, but his own personal advancement.

The life, the trial, and the death of Simon Lord Lovat, form, perhaps, one of the most remarkable and striking histories which have ever been recorded. At his first setting out in the world, he commenced his career with a capital crime; and he seems ever to have lived a rebel at heart, which he dissembled with the strongest professions, and apparently the most active efforts on behalf

of the reigning sovereign, at whose court he did not scruple to present himself, and to claim every token of regard as a loyal subject.

His trial is one of the most extraordinary and instructive in the annals of judicature: the importance of the transaction which formed the subject of his accusation, the greatness of the tribunal before which he was arraigned, and the rank and influence of the culprit himself, each contributing in the highest degree to give interest and dignity to the occasion. His accusers were the Commons of England. His judges the peers of the realm. Westminster Hall was the scene of this great tragedy. The crime was the highest known to the law; and the fate of the Crown of three kingdoms had been jeopardized by the conduct of the criminal at the bar. A trial of this nature serves, beyond any other process, to rake up and bring to light all the secrets of the event to which it relates, and to unravel in the fullest manner the motives and springs of action which influenced the movers in the scene. The best and purest materials for the historian are thus furnished; and the mode in which different facts are elicited, is at once most satisfactory and interesting. From this trial, and the contemporary accounts of the progress of the rebellion, and the various characteristic anecdotes relating to it, together with the correspondence which took place both between the actors in it, and those who were endeavouring to suppress it, the most just and ample idea may be formed as to its causes, origin, extent, and general nature. All the hidden secrets relating to the affair are brought to light, and the truth of them sifted and established during a legal investigation of this kind. No other mode of ascertaining the real history of some of the circumstances exists, and in many

respects this trial is the best exposition and record of the rebellion that can be found.

In order to afford a fair notion of these events, I have considered it preferable to give the various narrations relating to the rebellion, in the language of the time in which they were conveyed, instead of reducing them into a general narrative, by which the spirit and feeling, and effect of them, must be altogether lost.

The trial of Lord Lovat was one of the most remarkable occasions on which the judicial powers of Lord Chancellor Hardwicke were called forth. As the president of the grand court assembled, on Lord Hardwicke devolved the active duties of the judge, and the regulation of the proceedings. Every consideration appears to have been shown by him to the unfortunate condition of the prisoner, every reasonable indulgence was allowed him, and nothing was omitted that could conduce to afford him a fair trial.

The dignified, humane, and becoming address of the Lord High Steward, to Lord Lovat at the commencement of the trial, was worthy of the first judge of this great jurisprudential nation, and of the president of the most august judicial assembly the world has ever witnessed.

His speech to the prisoner, on passing upon him the awful sentence of condemnation, was at once appropriate and imposing. It was forcible and piercing, without being coarse or brutal. It was severe in its strictures, without being unfeeling in its tone ; and its manner was dignified, without being insulting. The language itself was at once energetic, simple, and eloquent.

Horace Walpole, who never lost the opportunity of assailing Lord Hardwicke, whenever a pretext, however trivial, for this was afforded, accuses him of hauteur and

insult towards the rebel peers during their trial. As already observed, no pretence for this appears on the trial of Lords Balmerino, Cromartie, and Kilmarnock ; and Lord Lovat, when convicted of high treason, was a degraded person, and no longer entitled to the courtesy and respect due to his station. Nor has the rank of a felon ever been allowed to interfere with his treatment as a criminal, on the occasion of his condemnation.

In a case of this kind, degradation is an important part of the punishment. In many instances, especially where persons of rank and wealth are concerned, it may be the most effective portion of it. And, in a proceeding of the nature before us, it was especially necessary to prevent the influence of example from operating to allure others to follow. Besides, Lord Lovat's whole conduct and character were so very atrocious, as to excite necessarily in any honourable mind the warmest feelings of repugnance. And the strongest observation of Lord Hardwicke to Lord Lovat, was about his change or disguise of his religion, which was a prominent point of baseness in his career, too notorious and too flagitious to be passed over. Until he was actually found guilty by his peers, he was treated with all the respect and tenderness due to his rank and station.

A general charge of extreme and very unnecessary severity has also been made against Lord Chancellor Hardwicke, and the government with which he was connected, on account of the execution of the rebel peers already related, and of other prisoners, who suffered for their participation in the late rebellion. It must, however, be here borne in mind that this outbreak being the second attempt of the same nature which had been made since the present reigning family had been seated

on the throne, the most vigorous and decisive measures were imperatively called for against its leaders; that their own blood was justly due for the slaughter and ruin which they had been the means of thus recklessly bringing on so large a portion of their countrymen; and that rebellion being an offence against the actual existence of all law, and by which the very foundations of civil government itself are sought to be broken up,—the highest punishment which the law inflicts cannot be deemed too severe, however awful or repulsive, as a retribution for committing, and as a warning against the perpetration of, the greatest civil crime.

The Lord Chancellor's judgment in *Lawley v. Hooper* is one of great importance, and well evinces Lord Hardwicke's comprehensive and practical mode of applying the principles of equity to a difficult and complicated transaction of the nature here submitted to him, so as to meet fully the justice of the case.

A young baronet, in order to raise money to meet some pressing emergency, had been induced to sell part of an annuity, at a price far below its value; but in the purchase deed there was contained a condition of repurchase within a specified time, at an exorbitant rate. The plaintiff filed his bill to have the annuity re-assigned to him on payment of the principal and interest borrowed, which the defendant refused to do, contending that the transaction was not a mortgage but an absolute sale.

“*Lord Chancellor.* There has been a long struggle between the equity of this court, and persons who have made it their endeavour to find out schemes to get exorbitant interest, and to evade the statutes of usury. The court very wisely hath never laid down any general rule, beyond which it would not go, lest other means of avoiding the

equity of the court should be found out. Therefore they always determine upon the particular circumstances of each case, and wherever they have the least tincture of fraud in any of these oppressive bargains, relief hath always been given.

“ Here was an extravagant young man, who had been twice in prison, was committed to the Fleet the 2nd of June, 1736, and discharged the 1st of November, 1736 ; was again a prisoner the 7th of March, 1737, and this produces the bargain. The deed bears date the 1st of June, 1737, and he is discharged out of the Fleet the 3rd. The proviso in the deed uses the word repurchase, but there is very little difference in reality between the meaning of the word redemption and repurchase. I take the word purchase, used in all other depositions, to be only a cant word, meaning a sale or mortgage ; and the indorsement on the back of the deed uses the words repurchase and redemption promiscuously, which plainly shows that it was considered by all parties as a power to redeem.

“ But it is objected that this is not to be considered as a mortgage, because there is no covenant in the deed to repay the money ; but that objection is not well founded, for it is not necessary ; all Welch mortgages are without this covenant, and so are most copyhold mortgages.

“ Another objection which has been made, was that a man must be out of his senses to lend his money upon annuities for a life which may drop the next day ; and speaking abstractedly, and merely on the nature of annuities for life, there seems to be weight in this objection. But everybody knows that this casualty of losing the principal is secured by insuring the life upon which the annuity depends. But it is said that every life cannot be insured ; indeed the insurance office will require different terms, according to the life ; but still they may be insured, and it is admitted that this life was a good one.

“ Therefore, upon all the circumstances, I think this was and is to be taken as a loan of money, turned into this shape only to avoid the Statute of Usury ; but I do not think I am under any absolute necessity to determine this point, for I am of opinion that this is such an agreement as this court ought not to suffer to stand, taking it as an absolute sale.

“ An objection was made that great inconvenience would follow from such a determination as this, because it would oblige all annuitants of this kind to sell absolutely ; but I think no inconvenience of this sort will ensue : it will rather hinder such annuitants from selling at all ; and I believe, in my conscience, that the difference which

is now made between the value of annuities for one's own life, and that of another, has been entirely caused by the dealers in these annuities.

“ Therefore I declare, that, under the circumstances of this case, the plaintiff is entitled to a redemption of the sum of £150 a year, part of the annuity of £200 assigned to the defendant's testator, the 1st of June, 1737; and that it ought to be reconveyed to him upon the payment of the sum of £1050, with legal interest.” *

* Atkyns's Reports.

CHAPTER X.

1747—1751.

DISSENSIONS IN THE ROYAL FAMILY—THE KING'S LETTER TO THE UNIVERSITY OF CAMBRIDGE—DEBATE ON THE JURISDICTION BILL—DISSOLUTION OF PARLIAMENT AND NEW ELECTIONS—COLONEL YORKE AND THE BATTLE OF LAFFELDT—ADVANCEMENT OF ARCHBISHOP HERRING TO THE PRIMACY—PROMOTION OF DR. PEARCE—DEBATE ON MEASURES RESPECTING SCOTCH CLERGY—DEPARTURE OF THE KING TO HANOVER—ATTEMPT TO BRIBE LORD HARDWICKE—DIPLOMATIC LABOURS OF THE CHANCELLOR—TRANSLATION OF BISHOP SHERLOCK TO THE SEE OF LONDON—DR. DODDRIDGE AND LORD HARDWICKE—THE KING AND THE PRINCE—TREASON AT OXFORD—ELECTION OF LORD CHANCELLOR HARDWICKE AS HIGH STEWARD OF THE UNIVERSITY OF CAMBRIDGE—LITERARY PATRONAGE BY LORD HARDWICKE—THE PRESIDENT MONTESQUIEU AND LORD CHANCELLOR HARDWICKE—DEBATE ON THE MUTINY ACT—GAOL FEVER—THE PRINCE OF WALES AND THE CHANCELLOR—ADVANCEMENT OF BISHOP BUTLER TO THE SEE OF DURHAM—CORRESPONDENCE—ALARM ABOUT THE PRETENDER—DISQUIETUDES OF THE CHANCELLOR—JUDGMENTS OF LORD CHANCELLOR HARDWICKE IN CHESTERFIELD CON. JANSON—AND HALL V. HALL.

FROM the accounts which have already been afforded of their domestic life in the previous pages of this history, the reader will probably ere this have arrived at the conclusion that the family of King George the Second was not precisely of the genus denominated the united and happy. Though all the different members of it were brought up together, yet, as they jogged along on the rough highway of life, every possible occasion for every possible difference seems to have been ingeniously sought out and availed of to the utmost. Even the birth of a

child,—which is ordinarily regarded as a grand subject of congratulation, and forms a new bond of alliance between relatives,—was here turned into a cause of the most fierce outbreak among them, and made the ground of a separation as respects the leading members of the Royal establishment. And the occurrence of a funeral in this family, instead of softening animosities, afforded an opportunity for the display of some new cause of jealousy or ill-feeling. A kind of domestic opposition seems to have prevailed in the Royal household, only in its character more fierce and personal than that which raged in the parliamentary houses.

The temper of George the Second was not of the most placid or benign nature, as has been shown by his conduct towards his ministers ; though on several occasions he exhibited great real kindness and consideration with regard to them. His disagreements with his father were about as frequent, and as violent, as those with his son. With the latter, indeed, he kept up a running quarrel, which, with a few unavoidable interruptions, continued very steadily until death interposed by separating the assailants.

The loss of Queen Caroline was undoubtedly great, and severely felt in the Royal Family, as her influence over the King was both very extensive and very beneficial. Nevertheless, previous to her death, these unfortunate outbreaks appear to have occurred with little less constancy than they afterwards did.

Lord Hardwicke, as has been seen, on several occasions exerted himself as a mediator between the King and the Prince. His known influence in the cabinet, which more than once resorted to measures personally offensive to the Prince of Wales, made the Chancellor at length obnoxious to him, and Lord Hardwicke's removal

became one of the chief objects aimed at by the Prince and his adherents. It, however, redounds much to the Chancellor's integrity and honour that he took no steps to court the favour of the Prince, who, according to the natural duration of human life, appeared to have the prospect of a far longer tenure of power than his father could have ;—considerations which, as may be seen from their correspondence, were by no means absent from the minds of some of the ministers, and to which the Prince himself did not scruple to allude when dealing with a doubtful or wavering opponent.

The aversion of the Prince of Wales to Lord Chancellor Hardwicke was, indeed, almost a necessary consequence of his Royal Highness's admiration for those evil counsellors and unprincipled followers, who were the main cause of most of his errors, and who urged him on to the commission of the many very injudicious and improper acts of which he was occasionally guilty. His natural disposition appears to have been good and amiable, though his head was weak, and his flatterers filled it with conceit and error.

Nothing, indeed, would have been easier—though the dishonesty of it could not be doubted—than for Lord Chancellor Hardwicke to have coquetted with the rising heir, apparently his future Sovereign, especially as he had personal friends among the Leicester House party, in Bolingbroke, and also Lyttelton, who might at any rate have pacified the Prince, and assured him of the Chancellor's devotion to his service, so far as he could promote this without the knowledge of the King. The best proof of Lord Hardwicke's steady perseverance in the strict line of honesty and duty, unswayed by any considerations of this nature, by which many would have been but too readily influenced, is the strong and

decisive aversion with which the Prince latterly regarded him, and the efforts which he made for the removal of this faithful and unimpeachable minister.

That fruitful source of domestic disquietude, the partiality of the father for a younger son over the elder, and the exhibition on different occasions of a marked preference for the former, was of course readily availed of, and turned to full account in the case of the family before us. The Duke of Cumberland was the decided favourite of the King, and in turn rendered his support to His Majesty's councils and government.

In pursuit of that factious course which his Royal Highness's ill-advisers persuaded him to pursue, the Prince of Wales was induced about this time, without the consent of the King, to allow his name to be put forward as a candidate for the Chancellorship of the University of Cambridge, an office which was expected to become vacant shortly, by the resignation or death of the Duke of Somerset, the present Chancellor, whose age and infirmities rendered this event necessarily not very remote.

The following minutes, in the handwriting of Lord Chancellor Hardwicke, which relate to this matter, are among his papers :—

*“ May 14th, 1747, at the Cockpit.**

“ Lord Chancellor, Lord President, Lord Chamberlain, Duke of Bedford, Duke of Newcastle, Earl of Pembroke, Earl of Chesterfield.

“ By his Maj^{ty}'s com'ands, signified to the Lords above-mentioned, by the Duke of Newcastle & y^e Earl of Chesterfield, Sec^{rets} of state, their lordships met this day, &, at their desire, I read the inclosed paper to Mr. Castle, Vice-Chancellor of Cambridge, which paper had been

* Hardwicke MSS., Wimpole.

before approved by the King, & was by his Majesty directed to be thus co'municated.

“The Vice-Chancellor desired & had a copy of it for y^e assistance of his memory.

“The King directed that y^e Lord Privy Seal (Earl G.) & the Duke of Devonshire & Mr. Pelham, sho^d be present, but the two first were not come to town, & Mr. Pelham was detained too late at y^e House of Co'mons.”

The paper inclosed was a letter from the King to the University of Cambridge, in the following terms:—

“The King having been informed, that application has been made in the University of Cambridge for the election of his Royal Highness the Prince of Wales to be their Chancellor, in case of a vacancy; we are commanded by his Majesty, to acquaint you, that the said application was without his consent or privy; and that, tho' His Majesty does, by no means, intend to interfere in their election, y^t he is persuaded, from the regard & affection, which he has always show'd for the University, & from their duty to him, that they will not chuse any one of his family without his approbation.”*

With His Royal Highness the Duke of Cumberland, who was in great favour with the King, Lord Chancellor Hardwicke appears at this time to have maintained a strict friendship. And we find a letter, about this period, from the Lord Chancellor to the Duke of Cumberland, in which he thanks His Royal Highness, in warm terms, for his kindness towards Colonel Yorke, and explains at large the nature of the measures respecting the Scotch jurisdiction, which he had recently introduced.

“Your Royal Highness's repeated goodness to my son,

* Hardwicke MSS., Wimpole.

makes it indispensable for me to repeat my humble thanks, which I do with the greatest satisfaction on this occasion, as I see in it your gracious inclination, not only to his present advantage, but also to his real & lasting improvement in his profession; & the greatest benefit that can be conferred on a young man. He himself sees it in that light, & in that view will endeavour to pursue it, with the same gratitude & devotion to your Royal Highness, which I beg leave to assure you fills his father's breast."*

In a letter to Colonel Yorke, soon afterwards, Lord Chancellor Hardwicke tells him of his having written to the Duke, and sends his son a copy of the bill referred to respecting Scotland, of which measure the Chancellor says—

“It has cost me more pains than ever any Parliamentary measure did, &, in truth, more than was fit for my busy station.”

Mr. P. Yorke, in a letter to Colonel Yorke, dated the 29th of May, gives some account of the progress of the measure relating to Scotland, in the House of Lords, & of Lord Chancellor Hardwicke's efforts on this occasion:—

“The Lords had a debate, on committing the Scotch bill. . . . The turn of the Duke of Argyle's speech was, that these jurisdictions had been a security to the liberty of the people in the reign of arbitrary & violent princes, when the Scotch Privy Council acted as the instruments of their tyranny; but since prerogative had been circumscribed at the Revolution, & our liberties were under the constant inspection of the Parliament, he thought it more expedient they sh'd be abolished, &

* Hardwicke MSS., Wimpole.

justice administered by the King's courts; that if any of the heretable jurisdictions deserved to be taken away, it was his own, w^{ch} was the highest & an exclusive one, w^{ch} had been a constant source of uneasiness to himself, lest it sh^d be abused by his *deputies*—of jealousy on the part of the Crown, & of envy from his fellow-subjects. His Grace was long & learned, immethodical, but full of good matter. L^d Chesterfield spoke well, but in a graver & less florid style than when he was in opposition. L^d Morten spoke the best of the opponents, but protested agst protesting, w^{ch} had such an effect upon his countrymen, that not one of them signed the protest, w^{ch} was entered by ten English lords the day after; at w^{ch} the others are so angry that they have not once attended the progress of the bill since. Lord Tweedale, in the committee, was for leaving out the clause which empowers the judges on the circuits to try civil causes as far as £10 value, on appeal from the sheriffs' courts. It seems the Scotch lawyers are generally agst this provision, as taking some of the business from Edinburgh. But my lord * answered him very effectually, & shewed that it w^d be an ease & saving of expense to the people of Scotland, & no breach of the union, w^{ch} the other had suggested it w^d be. L^d Granville supported my lord, & has done so very heartily thro' the whole bill. He knows he shall not be the worse for it at St. J——'s. H. R. H. has observed a neutrality, & most of his servants have absented themselves whenever it came on. Some little amendments have been made to the bill by the Lords. They will pass it on Tuesday. It is said now the Houses will not rise till the week after next, but I hope to be going out of town a few days sooner."†

* Lord Chancellor Hardwicke.

† Hardwicke MSS., Wimpole.

Parliament was dissolved in June, 1747, and new writs were issued for calling another. Mr. C. Yorke mentions in one of his letters to his brother Col. Yorke, respecting the speech from the throne, which was the composition of Lord Chancellor Hardwicke :—

“The King’s speech at the close of the session gave a very general satisfaction, and was a good prelude to the dissolution. His Majesty was so much pleased with it himself, that he told the speech-maker he thought it had made a great impression upon the people, and that the right and happy temper in which the nation seemed to be, was very much owing to it.” *

The Prince of Wales actively exerted himself to strengthen his party on this occasion. Horace Walpole avowed that His Royal Highness had taken up £200,000 to carry elections which he would not carry, though he might have bought the parliament with that sum after it was chosen. In a letter to Sir Thomas Bootle, the Prince said, referring to the ministerial party—

“Pray God they may not have a strong majority, or adieu to my children, the constitution, and every thing that is dear to me. My upright intentions are known to you ; my duty towards my father calls for it. One must redeem him out of those hands that have sullied the Crown, and are very near to ruin all. I will endeavour it, and hope, with my friends’ assistance, to rescue, a second time, this kingdom out of wicked hands.” †

The following extract from Mr. Dodington’s Diary, relating to a visit paid by him in the capacity of a candidate for a seat in parliament, to a body of “worthy and independent electors,”—to whom he had no doubt been lavish of his assurances of the joy which the happy event

* Hardwicke MSS., Wimpole.

† Coxe’s Pelham.

excited in him,—so exactly describes the real feeling of the “honourable gentleman” on the occasion, that I here insert it as a fair specimen of the private journalism of an aspirant to a seat in the House of Commons.

“March 14. } Spent in the infamous and disagreeable compliance
 „ 15. } with the low habits of venal wretches.”
 „ 16. }

Mr. Philip Yorke was, on the present occasion, one of the candidates for the representation of Cambridge-shire.

From a letter of Lord Chancellor Hardwicke to a friend about the Reigate election,—in which borough the Chancellor had inherited property through Lady Hardwicke, which had formerly belonged to her distinguished relative Lord Chancellor Somers, and which was sufficient to enable Lord Hardwicke to return one of the members for that borough,—it seems that he was at this time desirous of introducing his second son, Mr. Charles Yorke, into the House of Commons.

“If there should be no appearance of an opposition in Cambridgeshire, I may then propose my son Charles for Reigate at y^e next election. . . . He has, poor lad, been dangerously ill of a milliary fever, & still keeps his bed, but I hope in God the worst is over, w^{ch} I know from your friendship you’ll be glad to hear.” *

Lord Chancellor Hardwicke wrote to his eldest son a long letter of good advice, previous to the Cambridge-shire election, in which he tells him :—

“As to your conduct, you must exert your election talents, which Mr. Hervey applauds. . . .

“I charge you to take particular care of your health,

* Hardwicke MSS., Wimpole.

& not to fright us as Charles did. You can't drink, & need not do it much yourself. If you find yourself hot & dry, drink negus, I mean wine & warm water, & be sure to take care that your bed & sheets are *in all places* well aired. . . . You are entering upon a new scene. God bless & prosper you in it. . . .

"The King expressed himself to me most extremely pleased with your standing for the county." *

Mr. Yorke was elected for the county of Cambridge, in conjunction with Mr. Soane Jenyns, without any opposition; but as there appeared some doubt as to this up to a late period, he was also returned to parliament for Reigate. When the session commenced, he made his election to sit for Cambridgeshire, and Mr. Charles Yorke succeeded him at Reigate.

Lord Chancellor Hardwicke in a letter to Mr. Yorke, dated August the 6th, says:—

"I hope your sister made my excuse politely, & gave you my congratulations on your election. What we want further is a copy of the equestrian oration, which you made from the eminence of your horse's back, & to know how *the Colonel* stood the fire of it. . . . I hope Charles wont have made so much use of his new dancing pumps, as to want many more pounds of bark.

"Your mother joins me in our most affectionate compliments to my Lady Grey & yourself, & love & blessing to you all. God preserve you in health, & then I know you are very happy where you are. It will be a fortnight before I shall get released." †

A letter from Miss Yorke to Colonel Yorke contains

* Hardwicke MSS., Wimpole.

† Ibid.

a brief notice of one of the Prince of Wales's entertainments to his friends at this time.

“ I must add a bit of town news. The Prince gave a ball last Monday se’nnight at Kew. Lady Jane Scott, who was one of the party, told me it was nothing like the ball at Vauxhall last summer, & you will believe it when I have named some of the dancers, *comme par exemple*, the Dowager Duchess of Leeds, & the Duke of Chandos ; Lady How & Lord Baltimore, Lord Bathurst, Lord Blessington, Sir Harry Lyddel, &c., an odd mixed party. There were a few young ladys, who are not worth naming after the others.” *

A polite and complimentary letter was addressed by Lord Chancellor Hardwicke to the Princess of Orange, on the occasion of the important revolution which, during April, took place in Holland, by which the magistrates were compelled to declare the Prince of Orange their Stadtholder ; and he was, on the 2nd of May, in the assembly of the States General, invested with the power and dignity of Stadtholder, Captain-General, and Admiral of the United Provinces.

Intelligence arrived in England in June of the battle of Laffeldt, at which the British army, under the Duke of Cumberland, who had behaved with great bravery, were compelled to make a retreat to Maestricht. Reports were circulated of extensive loss among the Duke's troops. Colonel Yorke, however, wrote to Lord Chancellor Hardwicke immediately after the engagement, giving him a full account of it, and conveying the gratifying intelligence of his own personal safety, about which great apprehensions had existed. The following is Lord Hardwicke's reply to his son's letter :—

* Hardwicke MSS., Wimpole.

“ *Powis House, June 30th, 1747.**

“ DEAR JOE,—I cannot begin my letter without first returning my thanks to God, & congratulating you upon the safety & preservation of the Duke & yourself. In my whole life I never felt so much anxiety as I did on Saturday during all the forenoon. Letters came in the night, between Friday & Saturday, from General Huske & Comodore Mitchell, of which I was informed in the morning, & those brought so general & uncertain account of a defeat & the retreat of our left wing, with^t anything said of the right, as left us under the utmost doubtfulness & alarming apprehensions. This was not owing to any fault, either in Huske or Mitchell, for they writ all they were informed of, & Huske wanted the King's orders about the battalions which were with him in Zealand. You see what our uncertainty must be, both as to the state of affairs & the fate of our friends. After H. R. H.'s messenger arrived, your letter came to my hands about 4 o'clock, & with it another of y^e 29th, N. S., for your brother. This relieved us as to the *personal* part of our anxiety, & as to the *public* alleviated our concern. I own I feel for His R. H. more than I can express, who, so deserving of better fortune, after all his immense labours & imminent dangers, has at last met with this disappointment. I am much obliged to you for your letter, which contains the most detailed, & by far the best & clearest account that has yet come. As the King, who is justly curious in such cases, desired to see it, I cou^d not refuse it. I think it did not only you but your master some service, for His Majesty was prodigiously pleased with it, talked much of it, both at his levee yesterday & in his drawing room; & the Princess told me it was quite right to communicate it to

* Hardwicke MSS., Wimpole.

him. The King was taken, too, with the spirit with which it was writ, & the principle of *Ne cede malis, sed contrà audentior ito*, pleased him. I have traced your description of the action by Frix's map, & think I clearly understand it. The King & everybody seems satisfied that the Duke cou^d not, consistently with the services in view, & any military rules, avoid fighting; & the misfortune appears to me to be owing to the *lúcheté* of the Dutch troops, & the Austrians not coming to your assistance. The latter of those incidents wants to be cleared up. . . .

“ Sir John Ligonier's being prisoner is a great present loss, but I hope he will soon be redeemed. Everybody is full of the praise of the Duke's bravery & indefatigable activity. I am glad you had the good fortune to sup with H. R. H. & not with Marshal Saxe & Sir John; for w^{ch} reason *Grey** is become a greater favourite than ever. Let me know the particulars of any other incidents that happened to yourself.

“ The elections go here prodigiously well & beyond expectation, & I believe this unlucky accident will not affect those which are behind. The Duke of Bedford has *triumphantly* carried two for the town of Bedford, & two Whigs will be chosen for that county without opposition. The independant electors at Westm^r are beat to dirt. Your brother is elected at Reigate with your cousin Charles Cocks, with^t any opposition; your uncle having declined, & desired his nephew might succeed him. Tho' y^e Cambridgeshire election happens monstrously late, not till y^e 16th of July, your brother & Mr. Jenyns will (as I have the best reason to think) be chosen without any opposition, though with a good deal of expence. I intend then that he shall make his election

* Colonel Yorke's horse, on which he rode during the engagement.

for the county, & Charles come in at Reigate. When you have a mind to be in Parliamt, & it is proper for you, my endeavours shall not be want'g.

“ News is come to-day to the Admiralty, that part of Warren's squadron has fallen in with y^e St. Domingo convoy, & taken 30 merchantmen; & 'tis hoped that Warren himself has met with the rest.

“ I just now hear that Sir Tho. Clarges & Sir Tho. Dyke have given up the poll for Westmr, & the numbers stood thus :—

Lord Trentham, 2659. Sir Tho. Clarges, 507.

Sir Peter Warren, 2646. Sir Tho. Dyke, 484.

“ The kindest love & best wishes of all your friends here attend you. We long to hear from you more particulars of your present situation. I thank you for two former letters, w^{ch} I had not time to answer, & am ever your most affectionate father,

“ HARDWICKE.”

“ Lay me at the Duke's feet with my humble duty.”

Lady Hardwicke also wrote to her son, Colonel Yorke, on this trying occasion, the following very affectionate and feeling letter :—

“ MY DEAREST DEAR CHILD,—God Almighty bless you, & make us truly thankful for yo^r wonderful preservation in the hour of danger. May his good providence still attend you, & bring you once more to your affectionate friends with better fortune, if it pleases God, in whose hands we are, the victors & the vanquished. Yo^r account of the Duke's behaviour in the day of battle quite charmed us; but success is not in our power; we are humbled, but I hope not without some mercy in store for us. Yo^r friends & companions, killed and wounded, I am quite grieved for, every hour adding to their num-

ber, & my thanks for yo^r wonderful escape. I cou^d talk for ever on this subject, but I say no more. My lord writes himself to you. I can't help telling you to let us hear when you can, tho' I know 'tis needless, because I am sure you know my fond anxiety for all my children. The affectionate, ardent prayers of the whole fraternity attend you, as well as those of her who is

“ Most affectionately ever yours.”

“ Sir Wyndham Knatchbul begs you will send some further account of his brother, & Mrs. Wills also entreats for news of her nephew if you can tell any. Lady Vanburgh is much obliged to you, & hopes to hear again very soon. If any compassionate case amongst the wounded men shou^d engage yo^r concern in seeing them in distress for want of some little helps, I allow you to give 20 guin^s for me amongst them, as from yourself. But say nothing of it where you are, nor when you write home. A mite was once accepted. Once more, God bless you.”*

Miss Yorke, in a letter to her brother on the same matter, tells him—

“ I love Grey still better than ever for having been again the instrument of your safety. Indeed, to own the truth, I begin to think the Turkish emperor, who built the magnificent stable & golden manger for a horse w^{ch} had brought him safe out of some dangerous action, was not much in the wrong.

“ Your account of the battle, which came on Saturday . . . is certainly by much the best & clearest account that has been sent, & as such you will easily imagine it has been shown to *one*, who would have been glad to have seen every letter that came by the express.

* Hardwicke MSS., Wimpole.

The King, for you see I mean him, was pleased with your's beyond expression. He thanked papa aloud at the levee for having sent it to him, & joined with us in wondering how it could be possible for you to write such a detailed & exact description just after, or rather in the midst of, such a fatigue of body & hurry of spirits; & in going round the drawing-room he quoted you to everybody, 'Col. Yorke says so,' or 'so, &c.,' & Princess Amalie told papa, 'I am glad Jo supped with my brother however.' ”*

In another letter Miss Yorke says—

“ Captain Townsend, who brought your packet, & the two gentlemen that came over with him, incautiously enough raised an alarm in the city, as they drove through it on Wednesday, by waving their hats out of the coach windows, & buzzing as they passed by the Royal Exchange, which, as the people found they were officers just landed from Flanders, immediately produced a confident belief that there had been a second & more successful engagement there. It was some hours before all who had heard this news were undeceived, & when they were so, it was a real disappointment to many. You will easily imagine that we were not deceived by the report, receiving a letter from you at the same time; but poor Jem, who heard it at Hackney, complains bitterly of it as a most grievous bam, & indeed as they must know that people's minds must be in great agitation, it was but a silly thing.”†

A letter from Miss Yorke to her brother, Colonel Yorke, dated July 27th, mentions the following:—

“ That heroine, Miss Flora Macdonald, set out for Scotland last week, in consequence of the act of grace.”‡

* Hardwicke MSS., Wimpole.

† Ibid.

‡ Ibid.

Mr. Charles Yorke, whose recent severe illness has already been referred to, gave the following touching account of it in a letter to his brother, Colonel Yorke, which is peculiarly characteristic of the warm feelings and amiable sentiments of the gifted writer.

“ After three weeks’ refreshment in the country, & the benefit of air & exercise, I sit down to return you many thanks for your very kind & friendly inquiries during my dangerous illness. They touched me very sensibly, because they were frequent & seemed to come from the heart, being in every respect agreeable to the experience I have had in other instances of your tender regard towards me. In the height & violence of the fever, I once gave myself for lost, and took my leave of those whom duty particularly engaged me not to neglect in such moments. Believe me, it was a grief I could not help expressing very strongly that you were absent at that time, tho’ I had nothing to have said to you, but my most affectionate wishes for your welfare. It pleased the providence of God to turn the crisis of my disorder in such a manner as to preserve my life ; yet, if I am not mistaken, should it ever be my lot to die of a fever, I have nothing more to feel than what I did, except it be the stroke & instant of death itself.”*

Nor was Lord Hardwicke, however he may have been represented by some of his biographers,† in any respect wanting in this kindly feeling towards the members of his family, for each of whom he displayed the tenderest affection on all occasions.

In a letter to Colonel Yorke, dated “ Powis House, the 21st of August,” he tells him—

* Hardwicke MSS., Wimpole.

† Lord Campbell’s *Lives of the Chancellors*; *Lives of Lord Chancellor Hardwicke*, and *Lord Chancellor Charles Yorke*.

“ We cannot but feel & fear much for your health in this hot season, yet the demonstrations given of His R. H.’s opinion & confidence in you, & the reception which you have met with from the Prince & Princess of Orange, ought to give you the like pleasure as they do me, & stimulate, as I am sure they will, your zeal & endeavours for the service of your master, to whom we are all so much obliged. I look upon it as an instance of the Duke’s regard, that he sent my Lord Chesterfield a copy of your letter to him from Bergen-op-Zoom, to be laid before the King, with which His Majesty was so good as to express himself highly pleased, & said it was the only sensible detailed account which, till that time, he had seen of the state of the siege & defence. All his servants were of the same opinion.

* * * * *

“ I do most heartily wish that your frequent missions, & the way you are instructed to talk to the Stadtholder, may be instrumental to cement & establish that concert, confidence, & harmony between H. R. H. & the Prince, which are so peculiarly essential at this juncture. The continuance of the Princess Royal’s & the Prince’s goodness to you gives me much satisfaction. If you have another opportunity, pray make the politest acknowledgments on that subject, in my name; as I intend to do for myself, by a few lines to the Princess when Mr. Bentick returns.

* * * * *

“ Your letter, just arrived, obliges me to repeat my concern for the hazard your health must run from so much fatigue in this hot season. Your mother & I are to the last degree anxious about it, & charge you to be particularly attentive to it; to use all possible precautions, & to be watchful of the first symptoms of any

approaching disorder. Poor Jem is come home from school, with a return of his intermitting fever, but the bark has stop'd it for the present. Jack has had an ugly fever at Cambridge, attended with a hoarseness & cough alternately. He is now, I thank God, a good deal better, tho' not quite well.

"For myself, I finished my Chancery business last Saturday, but have been kept here till this late day in the vacation, by occupations of various kinds. Every thing is fixed for so much of the family as remains here to set out for Wimpole to-morrow morning, where we shall lament the want of your company, which nothing can make any amends for but the hearing often of your health. How long, in this situation of affairs, I shall be permitted to stay there, I cannot tell, but must fence as well as I can.

"You have the kindest love & best wishes of all here."*

Lord Chancellor Hardwicke obtained release from the labours of his judicial office, and went down to Wimpole towards the end of August. He wrote from thence to Mr. Yorke on the 1st of September, and in this letter tells him—

"'Tis remarked here that both you & Pegg are very taciturn about your lady visitors, whether fled or not. Let me tell you, we have had our ladies too. Mr. Stevenson, & Mrs. Stevenson, a great Cambridgeshire beauty; Mr. Nightingale, with Mrs. & Miss Nightingale, all dined here on Sunday, when the knight of the shire & his good lady were not forgot."†

The value of Lord Chancellor Hardwicke's services at

* Hardwicke MSS., Wimpole.

† Ibid.

the council board led to many interruptions in his holidays, and caused him on all occasions of importance to be sent for out of the country to attend meetings of the cabinet in London. It appears by a letter from him to Colonel Yorke, which bears date "Powis House, September 16th," that he was not long allowed to enjoy himself at his retreat during the present vacation:—

"I was summoned to town last Thursday, & have continued here ever since, but hope to return to-morrow morning. All the family, besides yourself, will be collected together at Wimpole, & we shall, as to private concerns, be *excepto quod non simul estes cætera læti*. We shall often talk of you & wish your health, which I hope in God continues well. The oftener we hear from you the greater will be our satisfaction. You have my best prayers, & those of your mother, & all the family."*

The Chancellor, however, returned to Wimpole as he anticipated. On the 20th of September Miss Yorke wrote to Colonel Yorke from thence, and alluded to a visit which was about to be paid to Lord Hardwicke by one of his early friends and correspondents.

"For our entertainment in dull weather, we expect the lively & ingenious Mr. Ward to come & spend some days here this next week. I am sure this single circumstance will make you wish yourself with us. . . . The newspapers you receive from this side of the water, if you have leisure to attend to them, have long since told you the accident that has happened to the Westminster Bridge. Our advices from London of this day inform us that the pier has sunk in the whole 23 inches, which is a great deal. There are watchmen now appointed to sit

* Hardwicke MSS., Wimpole.

up with it, & we hear it is a question among the wits in London, *How the bridge has passed the night?*”*

A letter from Charles Yorke to his brother Joseph, dated October 13th, contains the following intelligence:—

“The Archbishop of Canterbury died suddenly on Saturday. The Bishop of London† has declined the offer of succeeding. It is now offered to the Bishop of Salisbury,‡ who has not yet returned his answer. If he refuses, which some say he will, the Archbishop of York will be the man.”§

Miss Yorke in a letter to Col. Yorke, written a few days later than that last quoted, says—

“Two Bishops (viz. London & Salisbury,) having refused the Archbishoprick, that great dignity is in danger of meeting with nobody that will accept of it. The Archbishop of York’s answer is not yet come, but, *entre nous*, he is really very unwilling to accept of it, & unless he is moved by the earnest instances of his friends, we are in danger of not having the pleasure of *sailing to Lambeth in his Grace’s barge*, as the poet expresses it. It is hoped, however, that he may be prevailed on, & it is then said that Hutton will be translated to York.”||

Lord Chancellor Hardwicke accordingly wrote to his friend Archbishop Herring, intimating to him His Majesty’s intention of translating him to the see of Canterbury, to which His Grace replied as follows:—

“MY LORD,—I am honoured with your lordship’s of the 13th inst., w^{ch} I embrace with all my heart, as a new

* Hardwicke MSS., Wimpole.

† Dr. Gibson.

‡ Dr. Sherlock.

§ Hardwicke MSS., Wimpole.

|| Ibid.

instance of that friendship & affection for me, w^{ch}, for many years has been y^e support, & credit, & comfort of my life.

“I have considered the thing, my best friend & my most honoured lord, with all the coolness, & deliberation, & compass of thought, that I am master of; & am come to a very firm & most resolved determination not to quit y^e see of York, on any account, or on any consideration; & I beg it of your l^p as y^e most material piece of friendship, yet to be exerted by you, to prevent y^e offer of Canterbury if possible, or to support me in y^e refusal, if y^e other can not be prevented.

* * * * *

“I am really poor, I am not ambitious of being rich, but have too much pride, wth, I hope a small mixture of honesty, to bear being in debt; I am now out of it, & in possession of a clear independency of that sort. I must not go back, & begin the world again at fifty-five.

“The honour of Canterbury is a thing of glare & splendor, & y^e hopes of it a proper incentive to school-boys to industry; but I have considered all its inward parts, & examined all its duties; &, if I should quit my present station to take it, I will not answer for it, that in less than a twelvemonth I did not sink and dye wth regret & envy at the man who sho^d succeed me here, & quit the place in my possession, as I ought to do, to one wiser & better than myself.

“I have used great freedom, my most esteemed lord; but you see my heart with^t disguise, & I do beg it of you, as a most essential act, the crown & perfection of your friendship, to order matters so, if possible, that I may be entirely passed over on this occasion, or some way marked out, by w^{ch} I may decline y^e offer with^t offending that high & incomparable Prince, whom I obey & re-

veranse as my King, & love, next to God, as my best friend & benefactor.

“ I am, my lord,
 “ Your lordship’s most faithful
 “ & most affectionate friend,
 “ THO. EBOR.”

“ *Bp. Tp. Oct. 17, 1747.*”

To this letter, Lord Chancellor Hardwicke sent the following answer.

“ *Powis House, Oct. 20th, 1747.**

“ MY DEAR LORD,—I never received a letter from your Grace which gave any real concern ’till yesterday, & in truth the anxiety that has created in me is not easy to be described.

“ I must begin with acquainting your Grace with what has passed since my last. On Wednesday y^e 14th, the King received an answer from y^e Bishop of Salisbury, absolutely declining y^e Archbishoprick, in very decent but positive terms ; alleging such reasons fro’ his age of full 70 years, very bad health, & infirmities, as are unanswerable ; but declaring that otherwise, he should have thought himself bound in duty to accept it. To this refusal his lordship has adhered in another letter by yesterday’s post. On Sunday noon, before this last letter, the King acquainted me with his resolution, that you sho^d go to Lambeth, for w^{ch} I thanked him, as became me ; not in the least suspecting, (as I am sure I had no reason for it,) that you would decline it ; and yesterday noon His Majesty declared his pleasure in form to y^e Duke of Newcastle to y^e same effect. In this state y^e affair stood at y^e time I received your two letters, which your Grace will have y^e goodness to forgive me in saying

* Hardwicke MSS., Wimpole.

did to y^e last degree surprize & grieve me. As the King's positive orders were already given to y^e proper officer, there was no opportunity for interposing to prevent them; & therefore I thought it most desirable not to communicate, or so much as mention your letter to any person whatsoever, least that might make an ill impression, & lay your Grace under new difficulties. So far I did go to hesitate, & throw out doubts to y^e Duke of Newcastle & Mr. Pelham, wher you would be inclined to accept. Upon which they both stood astonished at once. Said it was impossible that a Bishop in y^e vigour of his age, not quite 55, of such a character, so much obliged to y^e King, & so well esteemed & beloved in y^e world, should decline it. They went further, & very seriously declared their opinions that it wo^d have y^e worst appearance, & create y^e worst impression—make people doubt of y^e stability of His Majesty's government, give a new triumph to y^e Jacobites, as if nobody of merit wo^d venture to accept the highest & most important dignity in y^e Church. Those are their sentiments, & I confess they are my own."

Lord Chancellor Hardwicke then proceeded to state at very great length, all the different arguments of various kinds, which rendered it desirable for Archbishop Herring to consent to his translation to the see of Canterbury, & which he placed in the most forcible light; after which, he thus concluded his letter, reiterating them together:—

"I had more reasons, but have gone thro' as many of them as I can recollect. For God's sake, for y^e sake of y^e King, y^e country, & y^r friends, don't *decline*. Consider y^e weight of this reasoning, & suffer yourself to be persuaded to yield to it. You are called by y^e voice of y^e

King, & of y^e best-intentioned men, & in this limited sense, *vox populi est vox Dei*.

“If the King’s messenger sets out before y^e post, he will bring this to your Grace, together with the Duke of Newcastle’s letter. If not, it shall go by y^e post, & you shall have y^e other by y^e messenger. Let your answer to my lord Duke be *accepting*. I know it will be most dutiful to his Majesty, & not flattering; & make it as concise as you can. I am, &c.,

“HARDWICKE.”

The following is the Archbishop’s reply to Lord Chancellor Hardwicke :—

“MY GOOD LORD,*—If you had been a witness of my agonies when the express came, & cou^d have seen me tossing in my bed afterwards, in quest of what the great ones often want, you wou^d have pitied me, & repented of this last instance of your excellent friendship. But, about an hour agoe, I took my resolution, & as I have no reason to repent of two removes, y^r l^p gave me, I will hope y^e best of y^e third, & am now stepping to y^e fire to burn three letters of refusal, & I verily believe, I sho^d have got y^e better of every other argument; but where y^r lordship is pleased to say my refusal might have affected your credit & weight, I knew y^e consequence of that too much, not to hold it in y^e highest regard. And now, my lord, after having said so much, & wth a little spirit, give me leave to say, that if His Majesty cou^d be prevailed on to alter his arrangement by keeping me where I am, & let Hutton take y^e chair pontifical, I will still leap for joy, & send you ten thousand thanks.

“My secretary is writing a copy of the letter intended for His Majesty. I hope y^r lordship will approve it. I

* Hardwicke MSS., Wimpole.

was in doubt whether I ought not to have wrote to y^e King, but have desired my lord Duke to apologize for me, if I am wrong.

“ Well, I build upon your lordship’s assistance, & that I shall have no occasion to borrow any thing from Pope Adrian. My humble service waits upon my Lady Hardwicke, & I will now hope to enjoy her good countenance.

“ I am, my lord, &c.,

“ Oct. 23.

THO. EBOR.”

Inclosed in the above letter, is a copy of the Archbishop’s to the Duke of Newcastle, notifying his acceptance of the proffered elevation.

Archbishop Herring was, accordingly, installed Archbishop of Canterbury; a promotion which was doubly gratifying to Lord Chancellor Hardwicke, not only because it bestowed higher dignity and influence on one whose principles he well approved, but because it brought the Archbishop so much nearer to him, and afforded frequent opportunities of friendly intercourse.

Dr. Zachary Pearce,* who, in 1739, had been appointed to the deanery of Winchester, by Sir Robert Walpole, on the solicitation of Lord Chancellor Hardwicke, was about this time offered the bishoprick of Bangor. He, however, exhibited considerable reluctance to accept this promotion, and stated several difficulties in the way of it, but he at length consented, and promised Lord Hardwicke that he would “do it with a good grace.”† The letter which follows was written by him to Lord Chancellor Hardwicke on this occasion.

“ *St. Martin’s Churchyard, Thursday, Oct. 29.*‡

“ MY LORD,—I do myself the honour of writing to

* *Vide ante*, vol. 1, c. 4.

† Nichol’s Literary Anecdotes.

‡ Hardwicke MSS., Wimpole.

acquaint your lordship that I waited yesterday upon the Duke of Newcastle, & accepted the offer, which His Majesty had made to me, of the bishoprick, with my vicaridge of St. Martin's *in commendam*. I believe that the Duke will say, that I accepted it with the *bonne grace* w^{ch} your lordship recommended.

“ I am for this, & all your lordship's other favours to me,

“ My lord,

“ Your very obliged & humble servant,

“ Z. PEARCE.”

Dr. Pearce was eventually consecrated Bishop of Bangor on the 21st of February. Several times afterwards, however, he expressed his wish to resign his dignities, and to retire into private life ; and, in 1768, actually consulted Lord Mansfield and Lord Northington, as to the legality of his doing so. Pulteney, on the occasion of Pearce's promotion by Walpole to the deanery of Winchester, called on him and assured him, with great generosity towards his powerful antagonist, that, whatever others might tell him, he owed it entirely to the good will of Sir Robert Walpole. Bishop Pearce was subsequently advanced to the see of Rochester, and Lord Bath offered his interest for getting him translated to London, but this he declined.

Lord Chancellor Hardwicke wrote to Colonel Yorke, on the 23rd of October, and mentioned the following circumstance :—

“ The King, (without any intention from me,) had got some hint of your long letter of Sept^r 11th, N. S., and on y^e 13th inst, O. S., asked me, in good humour, to see it. I was pleased it took its rise so, & accordingly sent it to His Majesty, who sent it back with this very gracious billet—*I thank you, my lord, for the communication of*

this letter, which I have read with a great deal of satisfaction. G. R. His Majesty afterwards expressed his approbation of it to me in person in a still stronger manner. I congratulate you upon it."

The new parliament met on the 12th of November. Mr. Onslow was unanimously re-elected Speaker of the House of Commons, his nomination, by the express wish of Mr. Pelham, being supported by Mr. P. Yorke. Both houses presented loyal addresses in answer to the speech from the throne, without any division on the subject. His Majesty, in his speech,—the draught of which is in the handwriting of Mr. Charles Yorke, with alterations in that of Lord Chancellor Hardwicke, it having been probably dictated by the latter,—informed the parliament that a congress would speedily be opened at Aix la Chapelle, to concert the means of effecting a general pacification; and reminded them, that nothing would more conduce to the success of this negotiation, than the vigour and unanimity of their proceedings.

Lord Chancellor Hardwicke states, in a letter to Lord Sandwich, which bears date December 15th—

"I really believe there never was a parliament chosen with better principles, or greater strength for the support of the King & his administration."*

A very long letter was about this time written by Lord Chancellor Hardwicke to the Duke of Newcastle, which mainly relates to foreign affairs of importance, the necessity of tranquillizing the King of Prussia, the subject of Silesia, and of preparing a plan for peace. In this letter Lord Hardwicke expresses some doubts as to how far the intercepted foreign correspondence can be

* Hardwicke MSS., Wimpole.

depended on. Very extensive reliance was placed on his judgment in these matters, which were, however, quite out of the immediate province of his official duties.

Miss Yorke, in a letter to her eldest brother, written about this time, tells him—

“This day being a holyday, papa drove to Twickenham Park, accompanied by myself & bro. Charles, who entertained us *chemin faisant*, with reading an excellent letter of Mr. Pope’s to Lord Hervey, in answer to his most abusive epistle to Dr. Sherwin, published in the year 1733. It is a piece of great humour, expressing the highest contempt for the person addressed, & yet wrote with a greater air of temper than is usual to the satire of the writer. It was wrote a few days after the epistle it answers was published, & was sent printed instead of written, w^{ch} gave great apprehensions that it was intended for the perusal of the public, which Mr. Warburton, who has lent it to Charles, says was the case, but that Mr. Pope was dissuaded from it by some friends of the noble lord’s, & particularly by *Horace* Walpole, not *Horry*.”*

The same letter contains some intelligence about the King, who had lately been suffering from indisposition, and concerning whom rather alarming reports had been recently in circulation :—

“The King sees his ministers in a morning, & plays at cards in the evening, still continuing to lye in bed in the middle of the day.”

The following brief correspondence took place between His Majesty and his Chancellor, on the subject of some

* Hardwicke MSS., Wimpole.

papers of interest, which Colonel Yorke had lately transmitted from abroad to Lord Hardwicke:—

“The gracious eye with which your Majesty has had the goodness to look upon some of these letters, encourages me to lay the enclosed at your feet. I should not have presumed to take this way of doing it, if my unavoidable engagements in your Majesty’s service had not absolutely prevented my attendance on your Majesty this day.

“HARDWICKE.

“*March 1st, 1748.*”*

“I thank you, my lord, for the communication of this letter, which I have read with great pleasure, as being very instructif and well turn’d.

“GEORGE R.”†

Dr. Birch, in a letter to Mr. P. Yorke, gives an account of the proceedings of the Chancellor on an important occasion, and also of the performance of Mr. Charles Yorke, who had lately taken his seat for Reigate, in the room of his elder brother.

“*May 7th, 1748.*‡

“On Wednesday I attended the determination of the claims of the Earldom of Stair in the House of Lords. The debate began soon after two and continued till past eight, when the issue was in favour of James Dalrymple, younger brother of the Earl of Dumfries. Lord Morton opened the debate, in a speech of an hour and 20 minutes, in support of the late Earl of Stair’s nomination of Captain John Dalrymple. He was answered by my Lord Chancellor, in a speech of an hour and a half, in which he considered the whole extent of the cause with great force, perspicuity, and elegance, and gave his opinion against the nomination, as not founded in any clear precedent, and inconsistent with the dignity and stability of the peerage. Lord Tweedale declared for the nomination, and then Lord Morton replied to some points urged by my

* Hardwicke MSS., Wimpole.

† Ibid.

‡ Hardwicke MSS., Wimpole; Hansard’s Parl. Hist.

Lord Chancellor; Lord Findlater spoke next against the nomination; and Lord Granville for it, but his speech was not one of his best performances. The Duke of Argyle was strong and decisive against the nomination, as what could only be maintained upon the foot of custom and precedents; but as these were wanting, the great and important inconveniences that might arise from the allowing it ought to determine against it. Upon the division, only 6 voted for it, and the next question in favour of James Dalrymple was carried without any contest. Lord Morton, in his first speech, complained, in a long but spirited digression, of the Scots' peerage, since the Union, being an insupportable burthen, not to be shaken off by a resignation, and yet disabling a man from procuring a fixed seat in the legislature. Lord Tweeddale talked likewise in the same strain.

“Your brother Charles opened his mouth on Monday in the House of Commons, with some success, upon the bill for the relief of Protestant purchasers, trustees, &c., of Papists' effects, against which he urged such a weight of objections that the patrons of it, Lord Gage and Mr. Fazakerly, abandoned it without any reply, and the committing of it was postponed.”

In compliance with the recommendation from the throne at the opening of the session, various regulations relative to Scotland were introduced, and embodied in an act for disarming the Highlanders, restraining the use of their national dress, and rendering more effectual the provisions relative to the functions of the episcopal clergy. The bill passed the House of Commons without opposition, but the clause respecting the episcopal clergy was strongly resisted in the House of Lords. It declared that “no letters of orders, not granted by some bishop of England or Ireland, should, after the 29th of September, 1748, be deemed sufficient to qualify any minister of an episcopal meeting in Scotland, even though registered according to the former act.” This clause was strongly disapproved of by twenty prelates, including Archbishop Herring, Bishops Sherlock, Secker, and Butler, on the ground that it superseded episcopal ordination, which, they contended, could not be an-

nulled, even by deprivation. It was also censured as an act of cruelty towards those ministers who had conscientiously qualified themselves according to the former bill.

The following account of the debate by an auditor of it, which was written at the time, will be read with interest. It is contained in a letter from Dr. Birch to Mr. Yorke, and bears date the 14th of May:—

“ On Tuesday, was committed to the House of Lords, the Scots’ bill, the clause in which enforcing the bill of 1746—obliging the episcopal ministers in Scotland to take the oaths and register their orders, but allowing no orders to be registered except those given or indorsed by some Bishop of England or Ireland—occasioned a debate which lasted from four to eight o’clock. . . . The Bishop of Oxford* began the debate, in a speech of half an hour, expressing great concern for the persons who might thus be exposed to ruin, after they had given the government a pledge of their fidelity by taking the oaths, though from a principle of generosity they might not be willing to discover those by whom they had been ordained. He urged that an act of the 11th of Queen Anne, tolerated in Scotland all who had been ordained by Protestant bishops, which seemed to include the nonjuring bishops. His lordship disavowed strongly the Pretender’s authority in making bishops, but insinuated that deprivation did not destroy the episcopal character, and declared that the Protestant bishops deprived by the Popish Queen Mary, remained still bishops, and that the present bench would still have continued so if the Pretender had succeeded and deprived them. He insisted, likewise, upon several difficulties which would attend the English and Irish bishops’ ordination of ministers for Scotland.

“ My Lord Chancellor answered him in an incomparable speech of three quarters of an hour long, in which he observed that the clause in question did not touch upon, much less determine, the point of validity or invalidity of orders given by nonjuring bishops, but regarded only the safety of the public, by restraining the exercise of functions derived from an authority destructive of our constitution both in Church and State. That he could not but give it as his opinion, as a lawyer, that the authority of the whole legislature, of which the spiritual lords are part, was of equal force with the sentence of an ecclesiastical court, for depriving a bishop and rendering all his future acts nullities. That the

* Dr. Secker.

King is the head of the Church ; and consequently the exercise of episcopal authority must flow from him, and that it is high treason for another set of men to pretend to the character of bishops, by an authority derived from a pretender to His Majesty's title, and therefore, of dangerous consequence to give the least countenance to such an authority, by allowing their acts. That the episcopal clergy of Scotland had, ever since the act of 11th of Queen Anne, exerted their functions without qualifying themselves according to that act, and had been the constant promoters of disloyalty and rebellion. That the few who had lately taken the oaths were justly to be questioned as to their sincerity, having done it with so ill a grace, and in such necessitous circumstances, and therefore were not to be considered, as they were not entitled to the benefit of the act of 1746, which clearly required that no orders should be allowed but from some bishop of England and Ireland, and the new clause was intended only to enforce the execution of that act, which had been endeavoured to be eluded by an opinion of some (I think only two) lawyers who had been consulted by the episcopal clergy, and were of known affections to their party.

“ Lord Sandys opposed the new clause as giving a new sense to the former act, and consequently an hardship upon those ministers who had been induced to take the oaths upon that act, and spoke of this as a direct persecution of them on account of their conscience. The Bishop of Salisbury urged the same topic, and insisted upon the difficulties of ordaining ministers for Scotland by the English and Irish bishops.

“ The Dukes of Argyle and Newcastle were zealous for the clause.

“ Upon a division, the clause was rejected by a majority of 32 against 28.

“ On Wednesday, the clause was restored upon the report of the bill, by a division whether the House should agree with their committee, the majority being 37 against 32. Lord Delawar spake first for the clause ; and was answered by the Bishop of Lincoln. After him rose the Duke of Newcastle, who was answered by Lord Sandys. Lord Findlater and Lord Bath rejoined, which called up my Lord Chancellor, who avoided touching upon any of the topics which he had used the day before, and which stood unanswered, but expressed his apprehensions of the dangerous wound which would be given to His Majesty's right and title and to our present constitution, if that house should show the least tenderness for any authority, temporal or spiritual, set up in opposition to them ; or admit of the mere taking the oaths to be a sufficient qualification to act under a commission,

or exercise functions derived from such an authority. Lord Bath said a few words in reply ; as likewise the Bishop of Oxford, about the promise of canonical obedience at ordination.”*

Lord Dufflin, in a letter to Mr. Yorke, written on the 12th of May, said in reference to the same subject—

“ Lord Chancellor never made a greater figure in y^e opinion of all good judges. In the first day’s debate he confuted by a most clear, distinct, & able argument, all that was advanced against the clause ; & in the second, warmed with the consequences which wo^d have attended the loss of the clause, he spoke with a spirit & zeal which animated all who heard him.”†

In the course of the speech here alluded to, the following observations were made by Lord Chancellor Hardwicke. After referring to Bishop Secker’s objections, in the way stated by Dr. Birch, he thus proceeded in his argument with regard to the danger of allowing instructors of disaffected principles to have influence in the education of the people :—

“ What Virgil says of fame, may properly enough be applied to a rebellion—

“ ‘ Mobilitate viget, viresque acquirit eundo ;
Parva metu primò : mox sese attollit in auras,
. . . . et magnas territat urbes.’ ”

“ Education, my lords, and the principles sucked in from our first tutors and instructors, have such an insuperable influence upon the future conduct of most men, that it is extremely dangerous for a government to allow any disaffected person to be an instructor of the people ; and as every man who has taken orders from a nonjuring bishop, either in England or Scotland, must be supposed to be disaffected to our present happy establishment, I think the government ought not to allow them to be preachers in any congregation whatever ; nay, for what we know, they must, at the time of receiving

* Hardwicke MSS., Wimpole ; Hansard’s Parl. Hist.

† Hardwicke MSS., Wimpole.

orders from such bishops, enter into such engagements, or subscribe to such articles of faith, as are inconsistent with our present establishment.”*

With regard to the argument made use of respecting the cruelty and injustice of the proposed measure, he contended thus:—

“When noble lords talk of compassion and cruelty, they should consider who are the most worthy objects of our compassion, and who are the most deserving of our severity. For, as to cruelty, I hope none of the proceedings of this house will ever deserve that name: and there is a certain set of people amongst us, against whom no severity can be called cruelty. When I say this, I hope no noble lord will suppose I mean those conscientious nonjurors who, from a principle of conscience, never could nor never did take the oaths to the government. When such men actually do engage in a rebellion, I think they deserve as much compassion as is consistent with the public safety; and while they remain quiet, without attempting to propagate their principles, they will always, I hope, by the lenity of our government, be protected as to their lives, liberties, and properties. But, the set of people I mean, are those who, notwithstanding their being Jacobites in their hearts, not only take all the oaths we can impose, but worm themselves into places of trust and confidence under the present government, and yet join in, or are ready to join in, any rebellion against it; and with respect to such men, I must say, that no regulation we can make, no punishment we can inflict, can be called cruel and unjust.”†

The biographer of Archbishop Secker, in referring to that prelate's opposition to Lord Chancellor Hardwicke on this occasion, states that the bishop “was answered, but with much civility and respect, by Lord Chancellor Hardwicke, who favoured the bill.” The writer adds, that the part which the Bishop of Oxford took in this affair did him not the least disservice with his friend the Lord Chancellor, whose sentiments he opposed; and who, a little before, had made a proposal to him, that if the Deanery of St. Paul's became vacant, he

* Hansard's Parl. Hist.

† Ibid.

should take it in exchange for the Rectory of St. James's and the Prebend of Durham. The Bishop accepted the offer, but told Lord Hardwicke he should not remind him of it, which he never did. Notwithstanding that, about two years afterwards, on the nomination of Dr. Butler, Dean of St. Paul's, to the see of Durham, Lord Hardwicke immediately wrote to the Duke of Newcastle, who was then at Hanover with the King, recommending the Bishop of Oxford for the deanery. His Majesty consented, and he was installed in December, 1750.*

Bishop Butler, another of the prelates who opposed Lord Hardwicke on this occasion, not long afterwards had the strongest proof afforded to him that the Chancellor's regard and esteem for him continued unabated.

Considerable embarrassment had been caused in the cabinet by the sudden and unexpected announcement, which was made by the King in March, of his determination to pay a visit to Hanover.

In a letter to the Duke of Cumberland, dated April 1st, the Duke of Newcastle mentioned :—

“The Lord Chancellor goes to morrow, to endeavour to stop the journey. I have some hopes he will succeed.”†

The influence of the Chancellor was, however, insufficient to induce His Majesty to abandon his intention of visiting his beloved dominions ; and on the 12th of May Lord Hardwicke was, by His Majesty in council, declared one of the lords justices for the administration of the government during His Majesty's absence.

Parliament was prorogued on the 13th of May, and so eager was the King to reach Hanover,—or to get out of England,—that, on that very day he repaired to

* Porteus's Life of Secker.

† Coxe's Pelham.

Gravesend, and sailed the next morning ; but, being driven back by contrary winds, he did not land at Helvoetsluys until the 22nd, and reached "home" shortly after. The Duke of Newcastle followed him to Hanover.

His Majesty was, however, very far from exhibiting the same haste and eagerness to set out on his journey when the time arrived for his coming back to England. And Mr. Pelham, in one of his letters to Lord Chancellor Hardwicke, written when the period approached for the King's return to his British dominions, thus pointedly referred to the delay which on this occasion occurred, and which must have contrasted strangely with His Majesty's habits of alacrity and expedition when London was the starting point.

"My brother is very uneasy about this delay, but I think there is not much in it, only that it shows, what we all know, that His Majesty is very sorry to come to us, & very glad to go from us." *

An account has already been given in a former chapter of the honourable and independent course pursued by Lord Hardwicke while Chief Justice of England, during a trial relative to the conduct of some magistrates of Great Yarmouth, and by which that eminent judge gained great credit and applause. Notwithstanding, however, the proof of his integrity thus afforded, an effort was actually made during the year 1748, by Mr. Thomas Martin, who was then mayor of Yarmouth, and who was threatened with some proceedings in chancery, to bribe the Lord Chancellor, for which purpose he wrote a letter to his lordship to entreat his favour on his behalf, and enclosed him a bank bill for £20, of which his acceptance was re-

* Hardwicke MSS., Wimpole.

quested "for his trouble in reading the papers." An order being made upon his worship to show cause why he should not be committed to the Fleet for a contempt, he swore that "the said letter was wrote, and the said bank note enclosed therein by him through ignorance, and not from any ill-intent whatsoever." Upon his paying all expenses, and consenting that the £20 should be distributed among the poor prisoners in the Fleet, the order was discharged.*

Two private letters, which were addressed to Lord Chancellor Hardwicke, about this period, by his nephew, Mr. Hugh Valence Jones, I have here extracted from, in justice to the character of that noble and learned lord, and as an additional refutation of the calumnies which have been cast upon him, in the assertion that he turned his back upon those of his relatives who needed his aid, when he himself rose into power and opulence ; a statement as malignant as it is untrue, though not more false than many other accusations of a different nature which have been made against him.

Mr. Valence Jones accompanied the Duke of Newcastle to Hanover, in an official capacity ; and, in a letter to Lord Hardwicke, dated "Hanover, Oct. 23rd, 1748," Mr. Jones says, "the many instances which I have received of your lordship's favour and protection, encourage me to hope that you will have the goodness to recommend me in a strong manner to my Lord Duke upon this occasion." Mr. Jones was desirous of obtaining an appointment which was in the gift of the Duke of Newcastle.

In a letter to Lord Hardwicke, dated Nov. 10, Mr. Jones refers to another nephew of the Chancellor, who had been lately promoted by him. "The King having

* Lord Campbell's *Lives of the Chancellors* ; Sanders's *Orders*.

been pleased upon your lordship's recommendation to appoint my cousin Billingsley to be clerk of the briefs," &c.

Mr. Pelham, in a letter to the Duke of Newcastle, who was abroad, and which is dated June 14th, 1748, says,—

"Your brother * does all business at the Regency board, which has its inconvenience. I have therefore proposed to him to meet with the Lord Chancellor every Wednesday, that we may agree beforehand, what is, and what is not to be talked of there." †

A very lengthy correspondence occurred at this period between the Duke of Newcastle, Mr. Pelham, and Lord Chancellor Hardwicke, on the subject of foreign affairs, more especially the settlement of the proposed peace, and in which the Chancellor explained his views at great length, and particularly urged that France ought not to be left in possession of any part of the conquests in the Netherlands. All the papers on the subject are mentioned to have been carefully laid before him. In another letter from Mr. Pelham to the Duke of Newcastle, dated "August $\frac{4th.}{15th.}$ 1748," it is stated—

"We had a long evening at the Lord Chancellor's yesterday."

The letter concludes by asserting that the Chancellor agreed with his colleagues as to the measures to be pursued.

"The Chancellor was as forward in this way of thinking as any of us ; and therefore wished all our endeavours should be used, either to drive the Queen of Hungary into our definitive treaty, since we cannot lead her, or else use all our art and industry with France, to persuade them to accept the act of mutual cession and restitution, from the Court of Vienna ; and we ourselves enter into a definitive treaty with France and

* Meaning his colleague, the Duke of Bedford.

† Coxe's Pelham.

her allies without her, as proposed in the Duke of Bedford's former letter." *

The letter which follows from Mr. Pelham to the Duke of Newcastle, evinces the reliance placed by the other members of the government on the judgment and knowledge of Lord Chancellor Hardwicke, in the arrangement of this very complicated and difficult matter; and which was quite beyond the sphere of his official duties. Yet Horace Walpole says of him that "he had no knowledge of foreign affairs, but what was whispered to him by the Duke of Newcastle!"

"August ^{11th,}_{22nd,} 1748.†

"DEAR BROTHER,—On Tuesday night I had a long conference with the Chancellor alone, and yesterday with his lordship and the Duke of Bedford, from half an hour past seven, 'till a quarter past one. We read over all your letters and papers; and at the end, put down in writing heads for the Duke of Bedford to turn into a letter for you, which will go by the messenger to-morrow. I think our opinions are sufficiently seen, as far as we are capable of giving any. But, as I desired the Chancellor to read your letters carefully, having taken care that he should have them one whole day in his custody, I doubt not but he will very amply supply what is deficient in mine. When I was at Powis House he seemed entirely of my opinion, exceedingly anxious that this treaty should not go off; and somewhat apprehensive that it would, from the different ways of thinking and acting between Lord Sandwich and Mr. Bentick, at Aix, and yourself and greater men at Hanover."

The King met with an accident during his visit to Hanover, which was near proving a serious interruption to his enjoyments there. The following is contained in a letter from the Duke of Newcastle to his brother.

"The King will go in that cursed *chaise roulante*. He was overturned yesterday, and lighted upon his legs, between the *brancards* and the chaise, so that if the horses had stirred the least, his legs, at best,

* Coxe's Pelham.

† Ibid.

must have been broke to pieces. He is very well, and in a very good and gracious humour." *

In another letter of the Duke of Newcastle to Mr. Pelham, written from Hanover, August ¹⁴/₂₅, 1748, after entering fully into certain of the measures then in agitation, he continues—

"Thus much of this letter you may, if you think proper, read to the Duke of Bedford; but the rest is for yourself and my Lord Chancellor, to whom I beg you would send it, for I have not time to write to him."†

A very long letter on the subject of foreign affairs, and the peace then in prospect, was about this time written by Lord Chancellor Hardwicke to Mr. Pelham, in which he detailed the arguments which he had previously used to the Duke, and expressed his full conviction of the necessity of concluding a separate treaty with France, if the Empress Queen should still continue intractable.

Mr. Solicitor-General Murray, in a letter to Lord Hardwicke, written July 17th, sent him some information respecting the alarming illness of the Duke of Somerset, whose death would cause a vacancy in the Chancellorship of the University of Cambridge, which it was thought most desirable should be filled by a supporter of the government, and one of whom the Sovereign would approve. The Duke of Newcastle, from his exalted position, and as holding the office of Lord High Steward in that University, was generally regarded as the person most likely to be chosen, whenever an opportunity should arrive. The Prince of Wales, it was, however, apprehended, would at once be put in nomination by the opponents of the ministry.

* Coxe's Pelham.

† Ibid.

A letter from Lord Chancellor Hardwicke to his eldest son, which I will here partially extract, affords some account of his domestic life at this time, and of the general movements of the family. The Chancellor's eldest daughter, Miss Elizabeth Yorke, had, at the commencement of the present year, been married to Admiral Lord Anson, the celebrated circumnavigator of the globe.

“*Powis House, Aug. 13th, 1748.**”

“DEAR MR. YORKE,—I won't make any apology to you for my delay in answering your kind letter. You know I have always reasons enough to excuse my being a bad correspondent, & there I will leave it. I could not go out of town without acquainting you that Monday next is the day I have fix'd for it, & that we shall all much rejoice in my Lady Marchioness's & your good company at the congress at Wimpole.

“Charles must answer for himself, who went yesterday with Tom Clarke to my Lord Macclesfield's; & this morning the President of the Royal Society, *cum sociis*, set out for the same place to escort Mr. Huggens's original glasses thither, with which they are now actually star-gazing. After this he goes to *ses Terres* in Kent, where I hope he will either find or invent as many fine things as he did in Wales, or else I shall be out of countenance for my never conquered country.

* * * * *

“I had letters yesterday from Hanover, where His Majesty & all our friends are well. The Duke† has staid longer than was expected, & proposed to get back to Guydhoven this day, with Joe in his suite. He talks of staying there seven or eight days, & then

* Hardwicke MSS., Wimpole.

† H. R. H. the Duke of Cumberland.

coming over hither ; & I believe Joe will attend him, for there will be no mission to Paris yet. . . .

“How long I shall be able to stay at Wimpole I know not, but fear I shall be transitory. I hope, however, not to be called upon before the Duke’s arrival, but must then expect it.”*

The Duke of Newcastle, in some of his letters from Hanover to different members of the government at this period, and more especially in those to the Chancellor, appears to have given way to an infirmity of temper, which he had but too often reason to repent of. Lord Hardwicke at great length remonstrated with His Grace on the intemperate expressions which he had made use of, commencing his letter in the following manly and candid manner.

“*Powis House, Sept. 2nd, 1748.*†

“MY DEAR LORD,—I never in my life received so much mortification by any letter from your Grace as by those of Aug^t $\frac{17}{28}$ & $\frac{\text{Augt. } 21}{\text{Sept. } 1}$. The former made the less impression, as it proceeded from a misapprehension, which I knew must have been removed before it arrived here ; but the latter still gives me much inquietude. Not that I have so little discernment as to think y^e whole was meant for me, for I see part of it is levelled at y^e place whither y^e copy was sent. But my regard for your Grace is too sincere to suffer that to give me any real ease, because I am convinced that every thing w^{ch} tends to irritate, or create ill-humour betⁿ you & y^r brother, must be attended with y^e worst consequences to both. It is a trite saying, *Litera scripta manet* ; but it expresses y^e true difference between y^e same things when spoken in conversation & when put into writing.

* Hardwicke MSS., Wimpole.

† Ibid.

The one frequently passes off, & is forgot with the day; but y^e other is lasting, & may be referred to afterwards."

From the Duke of Newcastle's reply, which began as follows, it appears that the Lord Chancellor's letter produced the impression on his Grace's mind which the writer desired:—

*"Göhrde, Sept. $\frac{17}{28}$, 1748.**

"MY DEAR LORD,—I have received your very kind letter of the 2nd inst^t, & am very sorry that my two letters (particularly that of the $\frac{21 \text{ Augt.}}{1 \text{ Sept.}}$) should have given your lordship so much inquietude. Believe me, we have all our uneasinesses. And if you will, for one moment, put yourself in my place, I am sure that you must admit that mine must be greater than any body's, whoever is in the right in the points or point in dispute.

"I am truly sensible of your friendship, both to my brother & me, (and you cannot have it for the one without having it for the other,) and consequently I am concerned that any thing has passed between us (much more in writing) which carries with it marks of sharpness, ill-humour, & discontent. I heartily wish that had been avoided. For the future it shall be, for I am determined not to return it."

The Duke's letter occupies thirty-eight sides of foolscap sheets of paper, which was surely of itself taking no small revenge on a correspondent, whose time was so severely taxed as that of the Chancellor must at this period have been.

A long letter was written on the 26th Sept. by Lord Hardwicke to the Duke of Newcastle, on the subject of the project of M. Du Keil, the French ambassador, for a

* Hardwicke MSS., Wimpole.

definitive treaty of peace on the part of France, of which the Chancellor approved.

Another letter was shortly afterwards written by him to the Duke on the same matter ; which contains some remarks on the hostages which were to be given by Great Britain for the performance of the treaty, and the restitution of Cape Breton to France. It had been proposed that two noblemen, the Earls of Cathcart and Sussex, should become the hostages, for which purpose they actually repaired to Paris. Lord Hardwicke, however, objected strongly to this on constitutional grounds, as he afterwards mentions in a letter to his son.

Against one condition, moreover, of the proposed treaty, conceding the restitution of Dunkirk, the Lord Chancellor, and Mr. Pelham, as well as the Duke of Newcastle, strongly protested. On this subject we find the following paragraph in a valuable work already referred to. The peremptory refusal of the Chancellor on this occasion was highly creditable to him as a minister, and indeed nobly patriotic.

“It is but justice to observe, that Mr. Pelham, however anxious for peace, agreed with his brother in objecting to this condition, which implied the restitution of the Port of Dunkirk ; and we find the Lord Chancellor declaring that to an article so mischievous to the interests of England, the Great Seal should never be put while it was in his hands.” *

In a letter which the Duke of Newcastle wrote to his brother, he expressed himself disappointed that his friends were not better satisfied with the arrangement of matters as to a general peace ; and rather aimed at Lord Hardwicke as the author of the discontent among the members of the government. Though peace was, with some difficulty, restored between the contending nations,

* Coxe's Pelham.

yet the task of effecting and maintaining it between those inveterate hostile assailants of each other, His Majesty's ministers, was found quite beyond the skill of the ablest diplomatists.

A letter from the Duke of Newcastle to Lord Chancellor Hardwicke, which is dated "Gohrde, Sept. $\frac{17}{28}$," contains the following intelligence:—

"I had yesterday the melancholy account of the death of the poor Bishop of London.* I sincerely lament the loss, which the King & the publick have had. I think he has scarce left his equal behind him in his way. For my own part, I have the greatest reason to regret him, having lost a most cordial, a most usefull, & affectionate friend.

"The King immediately named Bishop Butler to succeed him. But I have got His Majesty's leave to offer it to the Bishop of Salisbury, † who I have a notion will take it. And, in that case, Bishop Gilbert will go to Salisbury, in full of all demands, & Durham be open for Butler." ‡

The arrangement here proposed, of translating Bishop Sherlock from Salisbury to London, was accordingly carried into effect. The following is from that eminent prelate to Lord Chancellor Hardwicke.

"Wallington, Nov. 2, 1748. §

"MY LORD,—Tho' I intend to be soon in town, and to take the very first opportunity of paying my respects to your lordship, yet I cannot satisfy myself with^t sending an excuse before me, for not having done it sooner, and before any application was made to the seals on my behalf.

* Dr. Gibson.

† Dr. Sherlock.

‡ Hardwicke MSS., Wimpole.

§ Ibid.

“The unexpected change in my situation, to which I have submitted in obedience & gratitude to His Majesty, makes me more sensible than ever, how much I shall stand in need of assistance & support; and as I have always flattered myself that I had some share in yr friendship, I shall continue to hope for yr protection.

“I am, my lord,

“Your lordship’s most ob^t & most humble serv^t,

“THO. SARUM.”

By a letter from the Duke of Newcastle to Bishop Sherlock, it appears that he was at this time expected to resign the Mastership of the Temple. The King therefore directed the Lord Chancellor to select a proper successor in this important office, who accordingly recommended Dr. Terwick, Prebend of Windsor.

“As it is one of the nurseries of the law, His Majesty ordered my Lord Chancellor to find out a proper person. . . . In such a society there sho^d be the best man that can be got; and by all I have heard, Dr Terwick answers that description.” *

For some reason, however, Bishop Sherlock’s resignation of the Mastership of the Temple was deferred.

The King’s return to England was now becoming a subject of speculation. Colonel Yorke, in a letter to his sister, Lady Anson, says—

“The King, it is said, will keep one birthday at Hanover, & be born again in England. The time of his return is not quite certain; tho’ the wise conjecture it will be about the beginning of November, old stile.” †

A correspondence of some interest took place at this period between Lord Chancellor Hardwicke, and the

* Hardwicke MSS., Wimpole.

† Ibid.

celebrated Dr. Doddridge, who applied to the Chancellor, asking him to bestow some preferment on a gentleman who was desirous of being ordained a clergyman of the Church of England, and who Dr. Doddridge thought eminently qualified for this important office. Dr. Doddridge's letter is as follows:—

*“Northampton, Oct. 11^o. 1748.**

“MY LORD,—When I consider your lordship's superior station in life, & the great variety of business, publick and private, continually before you, & consider at the same time how little you know of me, & how very little a right I have in any view to ask any favour of your lordship, I feel a real confusion in the address I am now going to make; & yet, my lord, in the midst of that confusion, I find some encouragement arising, even from these considerations which at first seemed discouraging; as what I am going to ask appears to me to have some reference to the publick good, & has none at all to myself personally, farther than as such regards as no man can be ashamed to avow make it my concern. I have a secret confidence that, unknown as I am to your lordship, you will, however, credit the truth of what I attest, & a consciousness of an inward esteem for your lordship's character, beyond what can be expressed, emboldens me to think that an application of this kind, when the occasion of it is fully understood, will not need so much apology to L^d Hardwicke as it w^d to most men living if they were in his circumstances.

“It will now be respect to your lordship to come directly to my point, without further preface. You will allow me then, my lord, to tell you that there is in Northampton one Dr. Stonhouse, of St. John's, Oxford, a

* Hardwicke MSS., Wimpole.

physician, of great skill in his profession, & in good esteem among all that know him. He was once extremely licentious, both in his principles and practice; but I hope I may truly say, (& as one very material excuse for my present presumption, I will venture in confidence to say it to your lordship,) it has pleased God to bless the remonstrances I have made to him, relating to the truth and importance of Christianity, as the means of making him, not in speculation alone, but in heart, a convert to it. And such is the energy of that divine institution that, in opposition to the force of long habit, & in some respects of natural temper, too, he is now become one of the most temperate, humble, meek, devout & benevolent men I any where know. It is not, my lord, in this connection to be wondered, especially considering the natural ardor & activity of his temper, (of which his founding our hospital in about four months, when he came an absolute stranger among us, is an astonishing instance,) that he is now extremely desirous of serving the interests of a religion, the efficacy of which he has so deeply and strongly experienced. His publishing that *Letter to a Patient*, which I have ordered my bookseller to send to your lordship as soon as the second edition of it comes out of the press, is one instance of this; & another, which I will venture to lodge in your lordship's breast, tho' hardly known to any one else, is, that he is desirous to enter into orders. I, who have never aimed at making him a dissenter, tho', perhaps, considering my influence over him, & his own notion of Christian liberty, I might have been able to do it, have encouraged this design; & indeed, I believe, I was the first person that suggested it to him; & this for various reasons. I am fully persuaded, by what I know of his talents & his eminent piety, that he will make an excellent preacher, & a

faithful inspector of the souls which may be committed to him. I also know the state of his finances to be such as to need the addition of which this might make him capable; for, tho' he has a pretty estate of his own (about £200 per an.), he has a numerous family, & by the death of his charming lady, (who, tho' she was one of the best of daughters & of women, was barbarously disinherited by her father, Mr. Neal, & so deprived of many thousands to which she had a natural right,) he has sustained a great loss in consequence of what his generosity had done in the Mercers' Company, & by inserting her life in a lease of an estate held by lives, to make her life as comfortable as possible if she had survived him. The whole practice of physick, my lord, in Northampton, is but inconsiderable, & we have now four gentlemen of that profession in the town, of which Dr. Kimberley has, I dare say, more than double to what is divided among all the rest. So that, on the whole, I certainly foresee that Dr. Stonhouse cannot live upon the income of his fortune & his practice here, but must, if nothing be added, quickly remove to some cheaper country. Whereas I believe the accession of a few scores a year, added to his present income, would make his circumstances easy; & his bearing the office of a clergyman, which would not be inconsistent with his medicinal character, would give him a farther authority in attending the spiritual interests of our infirmity patients, in consequence of which he might act with the greater freedom, & with more probability of success.

“ Now, my lord, the favour I have to ask of your lordship is that, (not for *my* sake to be sure, nor for *his*, but that,) for the sake of our town and neighbourhood, & others to whom he might be useful in both capacities, your lordship would be pleased to think of this worthy

man as occasion may offer; & that in the meantime you would condescend to favour me with a line, encouraging me to hope that you will bear his case upon your thoughts; on which I am persuaded he would immediately take orders, & wait your lordship's leisure and opportunity for the accomplishment of his hopes.

“I should not, indeed, think it consistent with the views of his usefulness, which, if my heart does not flatter me, is the great mark I am aiming at, that he should remove from Northampton; but as he is a most generous & conscientious man, he will undoubtedly select a worthy curate, & make him a reasonable & decent allowance. I say not this, my lord, by commission from him, for neither he, nor any one in the world, knows anything of this application, nor shall know it till one way or another I am honoured with your lordship's answer; but I say it from the most certain knowledge of his temper, and I am persuaded that were he once introduced, tho' it were into a small living, his own merit, & the blessing of God upon him, would make way to something more considerable.

“I hope, my lord, you will believe, nay, I flatter myself you will by some genuine traces see, the uprightness of intention with which I make this address to your lordship, & so much the more as I really think nothing would be more likely to diminish the number of my own hearers than that Dr. Stonhouse should preach in the neighbourhood.

“You will also pardon me when I say I am confident that your lordship looks on the influence which Providence has given you in the supply of so many ecclesiastical vacancies, not as an opportunity of gratifying & indulging the sentiments & claims of private friendship, but as an important trust relating to the public good,

carrying along with it an awful account ; in the views of which, awful as it is, (as well as the other branches of that account,) I truly believe your lordship is rejoicing, & heartily pray that you may have more reason to rejoice, not only in the testimony of your own conscience, but in seeing the moral & the religious state of our country continually improving under your lordship's faithful & wise administration. But my heart warms too fast, & leads me too far. Let me be permitted only to add, that I cou^d not have sent a petition like this to a Lord High Chancellor whom I had not looked upon as one of the most humane, worthy, & excellent of mankind. L^d Hardwicke will therefore pardon this troublesome effect of my thinking him so ; and if there be, after all, any great impropriety in an address thus encouraged, will at least believe it is consistent with that profound respect & deference with w^{ch} I am, & certainly ought to be,

“ My lord,

“ Your lordship's most dutiful

“ & most obedient humble servant,

“ P. DODDRIDGE.”

The following is Lord Chancellor Hardwicke's reply to Dr. Doddridge :—

“ *Powis House, October 18th, 1748.**

“ SIR,—I received the favour of your letter relating to Dr. Stonhouse, a physician at Northampton, & am extremely obliged to you for the many polite & kind expressions of your good opinion of & regard for me. I flatter myself you do me justice in thinking that it is my desire & endeavour to introduce worthy & deserving men into such preferments in the Church as are entrusted to my care. As to Dr. Stonhouse, he is entirely

* Hardwicke MSS., Wimpole.

unknown to me; but I dare be confident, from your own very good character, that the account you give me of him is such as you are satisfied in your conscience he deserves. But it is incumbent upon me to acquaint you, that I have always observed it as an invariable rule never to make promises of any benefices to laymen, bred up to & exercising other professions, before they have received holy orders; nor to give them hopes or encouragement to expect any benefice from me. My reason is, that such hopes or encouragm^t, when given, might not be made use of to prevail with or induce any of y^e bishops to give orders, whereas I think they ought to be left to their own unbiassed judgm^t in conferring that sacred character. If I shou^d in any instances depart from this, I know it wo^d lay me open to many inconvenient solicitations; & therefore I trust your known candour will excuse me for not entering further into this affair, & for adhering to a rule w^{ch} I have found by experience to be right.

“ I am, with much esteem,

“ Sir, yours, &c.,

“ HARDWICKE.”

In answer to this, Dr. Doddridge wrote again as follows :—

“ *Northampton, Oct. 20, 1748.**

“ MY LORD,—I am honoured with your lordship's obliging letter of the 18th. I heartily thank your lordship for the condescension of it, & intirely acquiesce in the wisdom of that very good rule you have laid down for your conduct in cases like those to which mine referred; nor could I allow myself so much as secretly to wish that you shou^d deviate from it in favour of any person whatsoever. I hope, my lord, Providence will

* Hardwicke MSS., Wimpole.

point out some other way of introducing Dr. Stonhouse into orders, if his engaging in the sacred office he is thinking of may indeed be for his own & the publick advantage, & cannot, on the whole, repent of the application which your lordship has so candidly excused—an application which appeared to me, when I presumed on making it, to be, on the whole, right, & which I hope may be recollected with some little effect, if, on a proper concurrence of other circumstances, your lordship should be solicited in favour of that worthy person to whom it referred. Yet, for the sake of my country, I shall greatly rejoice if all who are in such a view recommended to your lordship's patronage may be more deserving of it than the Doctor. I conclude, my lord, with my most hearty wishes that as the season of publick business is returning, your lordship's health may be so confirmed as that you may pass thro' it with ease & pleasure, proportionable to that honour to yourself, & benefit to the public, with which all your great trusts have been & are discharged.

“I am, with the greatest esteem & deference,

“My lord,

“Your lordship's most dutiful, obliged,

“& obedient humble servant,

“P. DODDRIDGE.”

In one of Lord Chancellor Hardwicke's letters to his eldest son, dated “Powis House, October 22nd,” he gives him an account of the prospect of the conclusion of a peace by the treaty of Aix-la-Chapelle, which was shortly after this carried into effect; and he also refers to the affair of the hostages, which was subsequently arranged to his satisfaction.

“I was sorry for the breaking up of the *Wimpole*

congress, & long as much for the return of it as you possibly can, for I really consider it as a principal pleasure of my life. And now I must follow you in making an apostrophe to the *congress* at Aix. . . . Last night there arrived three mails & a messenger, & brought the news that the Austrian & Spanish ministers have acceded purely & simply to y^e definitive treaty; & that, according to Mo^r Ossorio's discourse on the 14th inst^t, o. s., (he being now the Sardinian first plenipo.,) the King of Sardinia's Act of Accession would arrive in 10 or 12 days from that time. This is all that is wanting to the completion of this great work, on which I heartily congratulate you, & look upon it as a happy deliverance. It is the more happy, as the peace is now made in conjunction with our allies, which I hope will have good consequences in future. . . . As to y^e affair of hostages, the French ministers agreed to insert, in the body of the treaty, the words I proposed,—*two persons of rank & consideration*; but they insisted upon a secret article between us & France only, that they shall be peers of Great Britain, which article is come over signed. This is not pleasant, but I believe we shall manage it well enough. But I desire you would not say any thing of this secret article.

“ I have a letter from Joe, who is well, but sends no further news than I have told you. The transports are getting ready to fetch over the British troops. Lord Anson sets out on Thursday next for Harwich, in order to convey the King, who proposes to set out from Hanover on our 8th or 10th of Nov^r. God send him a good passage, for it will probably be in the dark nights.

* * * * *

“ I long to see the alteration at y^e bottom of y^e

garden, for, from what I heard of it, I fancy it must be a good improvement.”*

The letter which follows is from the distinguished son and representative of Lord Hardwicke’s early friend and patron, Lord Chancellor Macclesfield, in which the writer expresses his unabated regard for and attachment to the Chancellor and his family :—

“*Shirburn, 31st Oct., 1748.*†

“MY LORD,—I have been honoured with your lordship’s, & am perfectly satisfied with the reasons you are pleas^d to give for postponing Mr. Wynter, whom I hope your lordship will have y^e goodness to remember on another occasion.

“It will always give me a very sensible pleasure to have an opportunity of showing my regard for your lordship, by doing any thing that may be agreeable to yourself or any who have the honour of being related to you. But I have no pretence to any merit of that kind, by my sincere endeavours to make Mr. Charles Yorke’s stay here not disagreeable to him; because his own merit has justly acquired him universal esteem, & entitles him to the greatest civilities that can be shown him by those whom he is so good to oblige with his company. The thanks are due from me for the favour he did me in a visit, tho’ it was but a short one; & it was no small concern to me that his engagem^{ts} wo^ld not permit him to throw away more of his time at this place, where I shall be proud to pay my respects to your lordship, or any part of your family who may at any time be pleased to honour me with their company. Elegancies I cannot pretend to, nor can I promise more

* Hardwicke MSS., Wimpole.

† Ibid.

than a sincere & hearty welcome to the best entertainm^{ts} the place affords.

“ Your lordship, I hope, will excuse me, if I beg you to present my proper complim^s of thanks to Mr. Chas. Yorke, not only for the favour of his agreeable company, but also for the very obliging letter which he was so good to send me upon his return to London, the rec^t whereof I sho^d certainly have acknowledged immediately, had he not said that he was just then setting out upon a tour ; so that I was very uncertain where a letter wou^d find him. And, tho’ I know he is now in London, yet it seems very awkward to me to write an answer, at the very end of October, to a letter received in August. But I flatter myself that he will have the candour to pardon my silence, & will be so just to me as not impute it to any want of esteem or regard for him.

“ I have lately rec^d a letter from my son George, who expresses a just sense of Col^l Yorke’s favours to him. May I be permitted to desire, that my best thanks may be transmitted to the Col^l, in the first letter that goes to him from any of your lordship’s family.

“ I am sensible of the great liberty which I have now taken with your lordship ; &, that I may not unreasonably trespass upon your time & patience, I shall hasten to conclude, & subscribe myself, with the greatest respect,

“ Your lordship’s

“ Most obedient, & most humble servant,

“ MACCLESFIELD.

“ Lady Macclesfield joins with me in sending our best respects to your lordship & Lady Hardwicke.”

On Saturday the 29th of October, Lord Hardwicke was present at a grand entertainment in the Guildhall,

together with the other lords justices, and several of the nobility and judges. Some delay was occasioned in the arrival of the Lord Mayor, who had that day been sworn in at Westminster, by the breaking of the pole of his lordship's coach, as he was returning from Blackfriars. No other interruption to the festivities of the day afterwards occurred.

Another letter was written from Hanover by the Duke of Newcastle to Lord Chancellor Hardwicke, which bears date ^{Oct. 30th,}_{Nov. 10th,} in which he mentions that the King had expressed himself "extreamly pleased" with his Lord Chancellor, and that he had "consented to Bishop Sherlocke's being Dean of the Chapel" Royal.

This letter also says "H. M. is highly pleased with your recommendation of Dr. Terwick for the Temple."

In a letter from His Grace to the Lord Chancellor, which is dated Utrecht, Nov. ^{14th,}_{24th,} where he had arrived with His Majesty, who was then on his way to England, the Duke states—

"I had the pleasure to find H. R. H.* more than ever satisfied with your lordship, & convinced of your great weight & ability in every branch of the King's service."

The King returned to England on the 22nd of November. Very shortly after his arrival, another misunderstanding arose between His Majesty and the Prince. Indeed, no fair opportunity for an outbreak in the royal family appears ever to have been lost. In the present instance it is but justice to all parties to record that it was availed of to the full. The Prince of Wales, it seems, had held a court of stannary, in quality of Duke of Cornwall; and revived some claims attached to that dignity, which,

* The Duke of Cumberland.

had they been admitted, would have greatly augmented his influence in the return of members to Parliament for the Cornish boroughs, which were at this time very numerous. These efforts roused the jealousy of the ministry, who vehemently opposed them ; and the adherents of the Prince in turn resented this conduct on the part of the government, & took every opportunity to thwart their measures. Lord Bolingbroke, who was at this period residing at Battersea, apparently sequestered from all the tumults of a public life, but where he was visited and caressed by the Prince and all the leading members of the opposition, is supposed to have been the principal director of His Royal Highness's councils.

An occurrence took place at Oxford in the commencement of the year 1748, which occasioned considerable ferment, and was regarded by some as a proof that the feeling in favour of the Pretender was still strong among many families of influence in England. It appears that two or three students of the University of Oxford, who were mainly distinguished for their riotous jovialty, openly proposed and drank the Pretender's health, and used sundry expressions of disloyalty, and attachment to the interests of the Pretender. Information of these doings, which seem to have created much disturbance in Oxford at the time, was speedily conveyed to the government ; in consequence of which certain proceedings were instituted, of which the journals of the day furnish the following account :—

*“ Friday, 4th November.—*Was tried at the King's Bench, Mr. Dawes, a student at Oxford, for treasonable expressions against His Majesty, and found guilty. Mr. Cha. Luxmore, after eight hours' trial, (on the 10th) was found Not Guilty.”

Of the latter case Mr. Etough, in a letter to Dr. Birch, makes this mention :—

“Luxmore’s escape, I am told, was a matter of concert. His father is a man well affected, & of great interest in Cornwall & the West. Littleton’s being elected for Oakhampton is ascribed to his management.” *

The paragraph which follows is from one of the public journals:—

“*Monday 28th Jan. 1749.*—Whitmore, tried 31st ult., and Ja. Dawes, the Oxford students, received sentence, ‘To be fined five nobles each; to suffer two years’ imprisonment in the King’s Bench prison, and to find two sureties for their good behaviour for seven years, themselves bound in £500 each, and their sureties in £250 each; and to walk immediately round Westminster Hall, with a libel affixed to their foreheads, denoting their crime and sentence; and to ask pardon of the several courts. This last part they accordingly performed.’”

It is, however, stated by contemporary writers that the government would not have proceeded to these extremes, had the culprits seemed disposed to make proper submissions, which they did not.

The only reference to this matter among the Hardwicke papers, is the following passage in a letter from Mr. Charles Yorke to his elder brother, dated Nov. 1st, 1748.

“One of the Oxford lads was tried yesterday, & convicted. He made no defence, only T. Carew attended, & asked two or three Old Bailey questions of the witnesses; as whether the def^t was sober when he committed the offence; or whether they ever knew him before that time.”

The feeling thus exhibited among the young men in England, especially those highly educated and of influential connections, shows that the Pretender’s cause was at this period not without its strong adherents, even in the south of Britain, as well as in Scotland. On the one

* Dr. Birch’s MS. Collect. Brit. Mus.

hand, the extreme hardship of the case of the exiled family, the severities which had been exercised on their followers, the generosity occasionally displayed by them during their temporary triumph, and the base desertion by many from the falling cause ; and, on the other hand, the personal unpopularity, foreign birth, habits, and prejudices of the reigning monarch,—could not fail to have their full effect.

Parliament was opened on the 29th of November. The address in the Commons was seconded by Mr. Charles Yorke, of whom Mr. Etough, in a letter to Dr. Birch, says :—

“ The figure Charles Yorke made the first day of the session is an agreeable piece of news. Nothing can be more pleasing than such accounts of young men, who have the additional character of probity and virtue. This the two Yorkes have hitherto maintained.”*

Horace Walpole, in a letter to Sir Horace Mann, dated 2nd December, 1748, mentions the following rumour about Lord Hardwicke :—

“ We talk much of the Chancellor’s resigning the seals, from weariness of the fatigue, and being made President of the Council, with other consequent changes, which I will write you if they happen ; but as this has already been a discourse of six months, I don’t give it you for certain.”

On the 2nd of December in this year, died Lord Hardwicke’s friend, the Duke of Somerset, at his seat at Petworth in Sussex, where he had retired for some years before his death. On the 26th of the same month he was buried in Salisbury Cathedral. Some years after his decease, a very fine marble statue of his Grace, by

* Dr. Birch’s MS. Collect. Brit. Mus.

Rysbrack, representing him in the younger part of his life, with the ensigns of the garter, and holding a roll in his right hand, was placed in the senate house of the University of Cambridge, of which distinguished body his Grace was the Chancellor.

No account of any debate of importance in which Lord Chancellor Hardwicke took part, is recorded as occurring during the present session; and on the 13th of June, 1749, Parliament was prorogued by a speech from the throne, which was the entire composition of the Chancellor. Satisfaction at the conclusion of the treaty of Aix-la-Chapelle, and a desire to maintain the peace so established, were the prominent topics alluded to.

Shortly after the death of the Duke of Somerset, which had been long expected, the Duke of Newcastle, who had hitherto filled the office of Lord High Steward, was unanimously elected Chancellor of the University of Cambridge. Mr. John Yorke, who was at this time a student of Ben't College, mentions, in one of his letters, dated June, 1749 :—

“ The ceremony of the installation is at present the great subject of our conversation . . . The Duke of Newcastle proposes to come down on Friday before the commencement, and will be installed on Saturday.”*

The same letter also refers to a disturbance in the University, which had lately taken place, similar to that which, during the year preceding, had happened at Oxford.

“ Of late there seems to have gone forth an almost universal spirit of riot & disorder, which has ended in

* Hardwicke MSS., Wimpole.

the expulsion, & rustication, & punishment of a lesser kind, of 16 or 17; & I am sorry to say that Ben'et has not been exempt from sharing in the disgrace. Two have been declared expelled from Sidney, for drinking the Pretender's health; and, if a report that I have heard to-day be true, more are like to suffer for making a general destruction of the windows of the publick schools last night, & committing other disorders."

Mr. Charles Yorke sent to his father, in a letter dated "Cambridge, July 2nd," the following description of the proceedings at the installation:—

"Every thing has proceeded with great decency & cordiality upon the occasion, which called us together at this place.

"About eleven o'clock yesterday morning, the Duke of Newcastle, attended by the *cohors amicorum*, the D. of Richmond, D. of Marlborough, L^d Godolphin, L^d Halifax, &c., came into the senate-house, & was addressed by the V. Chancellor in English, & by the Orator in Latin. Both of them performed their parts with credit to the university, & expatiated much on topicks of duty to the King and his government. The ode, which was performed after the speeches concluded, is esteemed a good composition; and, indeed, the poem was better than the music.

"The theatre held between 2 & 3,000 people. We made a long procession to Trinity College, consisting of persons of distinction, & the togats of the place; much venison was prepared for us, but every thing plain, & in the academical manner of entertaining, tho' it was said that French cooks had been busy more than a month. The D. of Newcastle dispersed his friends at the several

tables, & forced them to mix as much as possible with the residents and gremials of the university.”*

Horace Walpole, in a letter to Sir Horace Mann, written a few days previous to the above, refers in the following amusing strain, to the banquets which were on this celebrated occasion given at this great seat of learning:—

“Saturday, Sunday, and Monday next, are the banquets at Cambridge, for the installation of the Duke of Newcastle as Chancellor. The whole world goes to it; he has invited, summoned, pressed, the entire body of nobility and gentry from all parts of England. His cooks have been these ten days distilling essences of every living creature, and massacring and confounding all the species that Noah and Moses took such pains to preserve and distinguish. It would be pleasant to see pedants and professors searching for etymologies of strange dishes, and tracing more wonderful transformations than any in the *Metamorphoses*.”

The following important letter was sent to Lord Chancellor Hardwicke on this occasion, by the Vice-Chancellor of the university of Cambridge, the contents of which fully explain the subject of it:—

“*Cambridge, July 5, 1749.*†

“*5 o'clock in y^e Evening.*

“MY LORD,—I cannot lose a moment in informing your lordship, that this day your lordship was unanimously appointed by myself & y^e Senate, High Steward of the University of Cambridge. I am not insensible how uncapable y^e many and great honours so deservedly possessed by your lordship are of receiving accession from anything which it is in our power to bestow; however, I wou^d willingly persuade myself, that y^e acceptance of this wou^d be attended at least with no diminution to them, & that my being so instrumental in offering it may be pardoned, tho’ proceeding much less from an expecta-

* Hardwicke MSS., Wimpole.

† Ibid.

tion of obliging your lordship, than of rendering y^e most real and effectual service to this place. Your lordship will receive, on Friday evening, a more formal notification of this event, upon which, tho' I shall not presume to congratulate your lordship, I hope I may be permitted to congratulate everybody else, who wish y^e continuance of that good correspondence which subsists at present betwixt y^e Crown & this University. I have y^e honour to be, with y^e utmost truth & respect,

“My lord,

“Your lordship's most obedient,

“humble servant,

“THO. CHAPMAN.”

To this letter, Lord Chancellor Hardwicke replied in the following terms, notifying his acceptance of the office conferred upon him:—

“*Powis House, July 6th, 1749.**”

“REVEREND SIR,—The great honour, which the University of Cambridge has been pleased to confer upon me, by unanimously electing me to be their High Steward, cou^d not have been signified to me in a more agreeable manner than by your hand. This mark of the regard of so celebrated and learned a body is as unexpected as it is undeserved on my part; but cannot fail always to excite those sentiments of gratitude, & of zeal for their service, which become me. As you, sir, have very properly let me know, that I shall have a more regular opportunity of making my acknowledgements to the University, I will at present say no more upon y^t head, but beg leave to return my sincere thanks to yourself, the heads of houses, & the rest of my friends at Cambridge, for y^e obliging part which they have been pleased

* Hardwicke MSS., Wimpole.

to take in this affair, & to you in particular for y^e kind & polite manner in w^{ch} you have had the goodness to acquaint me with it. I am, &c.,

“HARDWICKE.”

Lord Chancellor Hardwicke also received the following gratifying congratulatory letter from the Duke of Newcastle, Chancellor of the University:—

“*Euston, July 6th, 1749.**”

“MY DEAR LORD,—Tho’ I conclude your lordship will have been before acquainted with it by the Vice-Chancellor, I cannot avoid taking the first opportunity of congratulating your lords^p, & ourselves, upon your unanimous election to be our High Steward, which was made yesterday in the afternoon. It was thought proper, that I shou^d declare my resignation to the Senate, which I did on Tuesday; & upon my leaving the University, which was yesterday morning, the Vice-Chancellor, immediately proceeded to pass the necessary graces. In my resignation, I endeavoured to say what shou^d be proper upon the occasion, with^t giving any handle to any of the university to complain of recommendation, or interposition. . . . I had yesterday morning a meeting of all the heads, when I truly informed them of my sentiments, & resolution to establish discipline & good governm^t amongst them.

“I am, with the greatest regard,

“My dear Lord,

“Your most affect^t humble servant,

“HOLLES NEWCASTLE.”

The following is Lord Chancellor Hardwicke’s address,

* Hardwicke MSS., Wimpole.

on this important occasion, to the Vice-Chancellor and Senate of the University of Cambridge:—

*“ Powis House, July 10th, 1749.**

“ Mr. Vice-Chancellor, & Gentlemen of the Senate.

“ I received by the hands of Mr. Borough, your very elegant & obliging letter, whereby you acquaint me with the honour which you have been pleased to confer upon me, by electing me to the office of your High Steward.

“ To have deserved so great an honour and trust from so illustrious & learned a body, must have been a high degree of merit, to which I am not vain enough in the least to pretend. But, if a warm & honest zeal to support the cause of virtue & learning, & to favour & protect letters & learned men, might be allowed to be a recommendation to your regard, that is a principle to which I shall always adhere, & which the distinction you have shewn me on this occasion will be the strongest motive to me to exert. The loyalty of the University of Cambridge, & their duty & affection to His Majesty & His Royal Family, have been so steady, & so conspicuous to all the world, that I cannot but look upon the choice they have made as a mark of their opinion that, during the many years I have served His Majesty & His Royal father, I have not failed in those essential points.

“ The advantage which so many of my sons have had by receiving their education under your vigilant care & excellent instruction is an obligation rather to be acknowledged on my part, than to be mentioned by you in so polite a manner. I am sure they will ever, with the justest reason, esteem it as one of the greatest felicities

* Hardwicke MSS., Wimpole.

of their lives ; & their father cannot but remember it with the truest gratitude.

“ By appointing me to be your council whilst I was at the bar, you made it my particular duty, as it always was my sincere inclination, to defend your rights & privileges. If any thing cou^d add to my zeal for that purpose, or to that veneration & affection which I have always cordially born you, it is this higher and nearer relation to you in which I have been unanimously placed. Permit me to accept it with that thankfulness which becomes me, & to assure you that my constant & earnest endeavours shall never be wanting to maintain those rights & privileges, & to promote your true interest & service on every occasion. One difficulty I already see myself labouring under ; that it is my lot to come after a great & honourable predecessor in this office, who was so much more capable of rendering you real services, & whose eminent merit towards you, as well as the public, has now raised him by your voice to the highest dignity in your body. It shall be my ambition to co-operate with my noble friend in such measures as may most conduce to the advancement of religion, loyalty, learning, & good discipline, & all the laudable ends of your institution. May these continue to flourish amongst you for the benefit of the present & future generations.

“ I am, with the most perfect truth & respect,

“ Mr. Vice-Chancellor & Gentlemen of the Senate,

“ Your most obedient, & most faithful humble servant,

“ HARDWICKE, C.”

The selection of Lord Hardwicke to fill the above important office was highly honourable to him, independent of the distinction itself, as a mark of the opinion enter-

tained of him by that learned and intellectual body, who were induced to deviate from their ordinary course in electing one who was not a member of that or of any other university, to that elevated station. This proves that he was regarded for something more than his mere professional and political reputation; and that his classical acquirements and mental endowments were appreciated by those best able to distinguish rightly as to the respect and veneration to which these were entitled.

Nor was it for want of other fit objects, that their choice fell upon Lord Hardwicke, as at that time there were many men of eminence, and of distinguished learning and talents among the nobility, and of the same party with the Lord Chancellor, who would have added lustre to the office itself; and several of the members of that university would have filled that station with the highest honour.

During the month of July or August in this year, Lord Hardwicke evinced his desire to encourage worth and learning, by offering preferment to Dr. Jortin, the eminent divine and scholar, and friend of Warburton and Herring, in the shape of a small living in the city, which was in his lordship's gift. Dr. Jortin, however, did not accept the proposal.

In the course of the year 1749, Mr. Joseph Ames, Fellow of the Royal Society, and Secretary to the Society of Antiquaries, published his "Typographical Antiquities, being an Historical Account of the Art of Printing in England, with some Memoirs of our ancient Printers, and a Register of the Books printed by them from the Year 1471 to the Year 1600; with an Appendix concerning Printing in Scotland and Ireland to the same Time." The work was inscribed "to Philip Lord Hardwicke, Lord High Chancellor of Great Britain."

This year the Lord Chancellor rebuilt at his own expense the parish church of Wimpole, which fact is recorded on a tablet in that church.

Another brief correspondence between the King and the Chancellor took place about this period, on his forwarding to His Majesty a letter from abroad, which he had just received, on the subject of foreign affairs.

“The inclosed letter arrived yesterday; but I fear your Majesty will find nothing in it sufficient to excuse my presumption in troubling your Majesty with it.

“HARDWICKE.

“*July 2^d, 1749.*”*

“I thank you, my lord, for the communication of this letter, whose contents I think are of consequence.

“G. R.”

The kingdom at this time was in a condition of extraordinary insubordination and lewdness. The highways were constantly infested with robbers, and the cities in the most profligate state. But the measure which especially excited the lawless violence of the populace was the erection of some new turnpikes, which the legislature had deemed necessary for the convenience of inland carriage. In the west of England this was more particularly the case.

In some instances it was found requisite to have recourse to the civil power, in order to quell these disturbances. Several persons were killed in these encounters, and some suffered for their crimes by the hand of the executioner.

The letter which follows is from the celebrated Henry Fielding, the novelist, who was also an active magistrate

* Hardwicke MSS., Wimpole.

for London and Westminster, to Lord Chancellor Hardwicke, on a matter connected with the above subject:—

“ Bow Street, July 21, 1749. ”*

“ MY LORD,—I beg your acceptance of a charge given by me to the grand jury of Westm^r, tho’ I am but too sensible how unworthy it is of your notice.

“ I have likewise presumed to send my draught of a bill for the better preventing street robberies, &c., which your lordship was so very kind to say you would peruse; and I hope the general plan, at least, may be happy in your approbation.

“ Your lordship will have the goodness to pardon my repeating a desire that the name of Joshua Brogden may be inserted in the next commission of the peace for Middlesex & Westm^r, for whose integrity and ability in the execution of his office I will engage my credit with your lordship; an engagement which appears to me of the most sacred nature.

“ I am, my Lord, with the utmost respect & devotion,

“ Your lordship’s most obed^t,

“ most humble servant,

“ H. FIELDING.”

“ To the Right Hon^{ble}

“ The Lord High Chancellor of G. Britain.”

To the nation at large, very important moral effects resulted from the establishment of the general peace which was now accomplished, and which had been proclaimed in London early in the year 1749. An interchange of opinion, and sentiment, and tastes, at once took place between the mind of England and the rest of Europe, which had of late been almost confined, as regarded our own intercourse with conti-

* Hardwicke MSS., Wimpole.

mental countries, to visits from Dutch diplomatists, and German courtiers. Art, science, literature, and even law, alike reaped high advantages from the calm by which the tempest was now succeeded. Numerous distinguished personages flocked from England to the continent, especially to the Netherlands, and to Paris. The genius of the different nations exchanged sentiments, and profited by a mutual comparison of ideas. The advancement of each country in its various pursuits and enterprises was displayed to one another, and in jurisprudence not least, this interchange of opinions was highly advantageous. Prejudices of many kinds were thus extirpated, and the arts of peace extensively promoted.

Accordingly, among others, Mr. P. and Mr. Charles Yorke were desirous of availing themselves of the peace, to visit some parts of the continent, and determined to make a tour together to the Hague, and also to Paris. On this occasion Lord Chancellor Hardwicke wrote a letter by them to the Princess of Orange, recommending them to Her Royal Highness's protection, and reassuring her of his own devotion to her interests. In a note from the Hague, dated July 22nd, Mr. C. Yorke acquainted the Lord Chancellor, that he and his brother had had an audience of the Princess, and delivered his letter.

The following reference to a most distinguished French jurist of this period, which is contained in one of Mr. Yorke's letters to Lord Chancellor Hardwicke, written from Paris, cannot fail to be interesting to all my readers:—

“ President Montesquieu was very civil to me in a visit I made him, and offered to carry me into any company of his acquaintance. He professed that regard and esteem for your lordship, which, from one of his charac-

ter, I am sure, is not flattery. I am to dine with him at my brother's,* on Sunday."†

Mr. Charles Yorke, in a letter to his father, from Spa, gives an account of his meeting with a great political character, and of his conversation with him, which will be read with interest :—

“ Lord Bath left us about ten days since. His son came from Dusseldorf to meet him, & they are gone by way of Brussels to Paris, where my lord & lady proposed staying till Christmas. I accompanied him as far as Liege, as a compliment of respect for the civilities he showed me after my arrival. When I did not happen to be engaged with other company, he insisted on my dining with him, & in every respect showed the utmost politeness & attention to me. In conversation with me, he talked freely of past times, I mean before Lord Orford's resignation, but would not come down lower. He dwelt much upon his old acquaintance with Sir Robert, & the admiration he had of his abilities. Not a word to me of any minister now in power, but your lordship, of whom he affected to speak with much honour, & that very often. But Mr. Damer, who has been here in a bad state of health, with Lady Caroline, told me that Lord Bath had said to some people that this administration could not last; for the most obstinate, & the most jealous man in the world could never agree. Of Lord Granville & Lord Chesterfield, he spoke sometimes, but with great coldness; &, to my surprise, commended Fox one day as the ablest speaker upon business, amongst the King's servants in the House of Commons.”‡

Mr. C. Yorke came to Paris in October; when we find

* Colonel Yorke.

† Hardwicke MSS., Wimpole.

‡ Ibid.

a letter from him dated there, Oct. 13, which contains the following interesting narrative of an interview with the President Montesquieu :—

“ Mons^r Le President Montesquieu was so good as to admit me into his acquaintance in half an hour. To-day I had the pleasure of a long conversation with him. He has a great deal of good nature & vivacity, as well as understanding; admires the constitution of England, & the genius of the people; & I should not forget to add, that he is penetrated with the honour my Lord Chancellor has done him, in reading & approving his book.* If ever he returns into England, it will be his ambition to acknowledge it. I have been told, said he to me, that during a chancellorship of thirteen years, not one of his judgments have been reversed, nor above two or three appealed from. ‘Tis true,’ answered I. ‘Ah!’ replied he, ‘*C’est un éloge au dessus de toute la flatterie.*’†

Mr. P. Yorke wrote again to his father from Paris on the 14th of October, giving an account of a visit which he and his brother had paid to Fontainbleau, and of all they saw there.

“ If we co^d have staid 2 days longer, we had an invitation to dinner from M^r Noailles, who desired to be remembered to your lordship

“ Mons^r de Voltaire is lately arrived from Luneville, inconsolable for the loss of his *particular friend* the Marquise de Chatelet, who died there after her lying-in. It is to this lady he inscribed his account of the Newtonian philosophy, upon w^{ch} she had herself just finished a commentary. . . . I had an opportunity at Fontainbleau of being about a quarter of an hour in M.

* L’Esprit des Lois.

† Hardwicke MSS., Wimpole.

Pompadour's company. She is very handsome, & very lively ; sensible of her beauty, & of her favour, & makes haste to improve the effects of both."*

The following is from a letter written by Mr. C. Yorke to Lord Chancellor Hardwicke, from Paris, on the 20th of October, in which mention is made of a celebrated French Chancellor of this period.

“ I have been engaged in visiting the French King's palaces within a reasonable distance of this place, & particularly at Fontainebleau, where L^d Albemarle did me the honour to take me in his train on Saturday. The next morning I was introduced, with many other English, (amongst whom was Lord Bath), to His M. C. Majesty. The King spoke to L^d B. with much civility, & was so gracious as to ask L^d A. two or three questions about me. I went thro' all the forms of waiting upon the Queen at her toilette, & on the Mesdames before they went to mass, & afterwards dined with Mons^r Puisieux, & attended the King at the grand concert in the evening. Mons^r Rouille & Card^l Tenien made me the same compliment on Monday & Tuesday, which Mons^r Puisieux had done the day before ; & the old Chancellor† would have invited me if I had staid longer. The Dutch minister, Mons^r Larrey, introduced me to him. He received me with great politeness, & spoke a great deal ; I told him that I came to pay my respects to him *comme un enfant de la robe* to the father of it ; & presumed to say something handsome (at least as much so as I could make it) in your lordship's name. He seemed pleased, & began with enquiring much after your lordship ; of your health, age, the weight of your office, the variety of its duties, & especially the extent of its jurisdiction. He said that as he had been told I was

* Hardwicke MSS., Wimpole.

† The Chancellor d'Agessseau.

an advocate, & therefore acquainted with the books of the law of England, he should be glad if I would recommend to him some well written discourse upon the distribution of justice with us, & the departments of the several courts of Westminster. As I did not extempore recollect any book which a foreigner co^d read with pleasure, or even understand, upon that subject, I said that the finest geniuses of the profession in England were generally too much employed to write such treatises; & consequently the best extant were both too dry for entertainment & too imperfect for information. He then talked of the English history, of Bacon, Burnet, Clarendon, & others, whose works he had read. And, when I took my leave, he charged me with his compliments to your lordship, with many expressions of the honour & esteem he had for your character; & as for you, says he, I hope you will show the same genius, & find the same success.”*

Mr. Charles Yorke, in another letter to Lord Hardwicke, from Paris, dated November 11, tells him,—

“ I had the honour to make your lordship’s compliments to the President Montesquieu; & as I had happened to converse with him some days since on the subject of those seignoral rights which were the consequences of the feudal constitution, I had the fairest opportunity of giving him your speech,† & explaining it to him. He had said that he considered those rights as a barrier against the crown, to prevent monarchy from running into despotism. I admitted that, under an absolute monarchy, they were a strength in the hands of the noblesse, & might be one means of preventing the government of France from becoming like that of Turkey. But that in a limited monarchy, as England, all private

* Hardwicke MSS., Wimpole. † On the Heretable Jurisdiction Bill.

rights which encreased on the legal authority of the Crown tended to erect petty tyrants at the expense of the people's liberty. The speech was very much to the purpose on this point, & I was happy to illustrate & support it by your lordship's reasonings & opinion. I explained the history of the subject, the delicacy of it, the point of time at which it was taken up, & the returns of the Court of Session; so that the President followed the argument of the speech with great ease. I added, that it was taken from your mouth, as you spoke from short notes."*

The two brothers returned to England in November.

During the time that Archbishop Laud filled the see of Canterbury, he put a tortoise into the garden at Lambeth, which lived until about the year 1749. A familiar letter to Lord Chancellor Hardwicke, from his friend Archbishop Herring, dated from Lambeth, contains the following amusing paragraph relative to a successor to Laud's venerable tortoise.

"It is a very trifling thing to tell y^r l^o that I have put a tortoise in my garden here. Not that I purpose to live ags^t him, but to keep up to the full y^e number of old domesticks. I hope he will like my coleworts, as well as those of St. Kits, his native country. His house is a curious dome, & painted by the best hand in the universe. I have no forebodings from the circumstance that the first Archb^p that introduced a tortoise here, lost his head."†

On the 16th of November, 1749, Parliament was opened by a speech from the throne, which was composed by Lord Chancellor Hardwicke. His Majesty on this occasion referred to the general peace, and the

* Hardwicke MSS., Wimpole.

† Ibid.

advantages resulting therefrom ; and expressed his satisfaction at finding all the contracting powers in the Treaty of Aix-la-Chapelle, as well as his allies, in the same good disposition.

The principal proceeding of this session, in which we find Lord Chancellor Hardwicke taking a prominent part, was the Mutiny Act. On the second reading of this measure in the House of Lords, a warm debate took place, the bill being strongly opposed by Lord Bathurst, Lord Westmoreland, and other peers.

Lord Chancellor Hardwicke, in his speech on this occasion, from which the quotations which follow are made, showed the absolute indispensableness of a standing army at that period, a rebellion having so lately broken out, and so extensive a spirit of disaffection pervading the country.

The necessity of capital punishment in cases of desertion is here contended for ; and the propriety of allowing the sentences of courts martial to be subjected to revision, is clearly and conclusively demonstrated, by analogous reference to the regulations of the proceedings of common-law courts,—in reply to some of the opponents of the measure, who had proposed to restrain all courts martial from inflicting any punishment affecting either life or limb ; and who objected also to a revision of the sentence of a court martial. The course recommended by Lord Hardwicke united, with needful severity of punishment, the greatest caution in proceedings which might lead to its infliction.

“ *Lord Chancellor Hardwicke.**—My lords, the bill now before us has, I shall admit, been often opposed in this House, but never with less reason I think than at this present time.

“ We have so lately had a convincing proof of the little dependance

* Hansard's Parl. Hist.

we can have upon the people for the defence either of our religion or liberties, that I am surprised to hear any doubt made of its being necessary to keep up a standing army, even in time of peace. When the late rebellion first broke out, I believe most men were convinced that if those rebels had succeeded in their attempt, popery as well as slavery would have been the certain consequence ; and yet, what a faint resistance did the people make in any part of the kingdom ; so faint that, had we not been so lucky as to get a number of regular troops from abroad time enough to oppose their approach, they might have got possession of our capital without any opposition, except from the few troops we had here at London ; so that the fate of the kingdom would have depended upon a battle fought within a few miles of this city."

He then referred to history to show that when we have kept up in this country an army without military laws, or courts martial, it was not from choice but necessity ; and these instances must be cited, not as examples, but as warnings. From this he also evinced the necessity of maintaining a standing army in time of peace.

He concluded with the argument referred to respecting capital punishments, and the revision of the sentences of courts martial.

" My lords, I am equally surprised at the objection made against what is called a revision of the sentence of a court martial. Can we suppose that the judges of a court martial are infallible ? Can we suppose them less liable to err in their judgment than a jury, or any of our courts of common law ? Do not we know that when a jury upon any trial at common law, brings in a verdict which the judge thinks unjust, or improper, he may order them out again to re-consider their verdict ? And do we not know that juries have often, upon such occasions, altered their verdict ? So likewise the judgment of any court at common law may be altered at any time within the same term. Why then should we not allow the judges of a court martial to alter their sentence or opinion, especially when the Crown or the Commander in Chief thinks that they have given an unjust or improper sentence ?"

The proposal alluded to, and opposed by Lord Hardwicke, was negatived by a majority of 88 against 15.

From the very long and elaborate notes which were made on this occasion by Lord Chancellor Hardwicke, preparatory to this speech, and which are among his papers, more than ordinary care and attention to the subject must have been given by him.

In the beginning of the year 1750, the Earl of Morton wrote to Lord Chancellor Hardwicke from Edinburgh, informing him that he had sent him a present of some bottles of Tokay wine, a cask of which Lord Morton had lately had presented to him by a friend at Dantzick. The letter contained also particular directions about fining the wine, according to the opinions of connoisseurs. A copy of a Cicero printed at Glasgow accompanied the present, on the title-page of which Lord Morton had written an inscription to Lord Hardwicke. To the Earl of Morton's letter, Lord Chancellor Hardwicke at once replied, thanking him for the presents, after which he proceeded thus :—

“ I am not learned enough in Tokay, to set up for a critic in it ; & your lordship knows me too well to imagine that I have acquired a taste of eating & drinking by y^e mode. If drinking it foul be fashionable, I disclaim that note of politeness. But I am confident your lordship's wine is in no danger of incurring any disgrace similar to that of Dr. Woodward's shield, which you allude to ; for that was at last condemned by y^e antiquaries to be nothing more than y^e bottom of an old iron candlestick, & therefore properly fell under the kitchen maid's jurisdiction.

“ I shall with y^e greatest pleasure give y^e copy of y^e Glasgow Tully a suitable place in my library, not only as it does honour to y^e Scotch press, where they now print the most beautifully of any country in Europe ; but

as it will remain there a mark of that regard with which your lordship is pleased to honour me. On that I set y^e highest value; and in that light shall consider y^e inscription; conscious at y^e same time how unworthy I am of any inscription that can come from a person, in whom learning adds lustre to y^e most ancient nobility.” *

The following allusion to an earthquake, by which about this period the metropolis was disturbed, and the legal haunts in it more especially disquieted, is contained in a letter from Colonel Yorke to his sister, Lady Anson, and which is the only mention of this subject which I find among the Hardwicke papers:—

“I shall say nothing to you about your earthquake, because you are all safe, & I have already said my say about it. I sho^d like to have seen all London in the streets at once. It must have been a fine combustion. All the accounts make those in Westminster Hall more consternated than in any other place. Was the shock greater there than anywhere else?” †

In a letter from Mr. John Yorke, to his eldest brother, dated 24th May, is the following passage relating to a judicial determination of Lord Chancellor Hardwicke:—

“My lord determined Dr. Green’s cause yesterday, in his favour, before as crowded an audience of all orders, as I ever saw. I believe the decision was universally approved, tho’ probably not understood by a quarter of the persons present.” ‡

The social state of the country was at this time in a very disorganized condition. The following is from one of the public journals:—

* Hardwicke MSS., Wimpole.

† Ibid.

‡ Ibid.

“Tuesday, May 30, 1750.—Several persons of distinction having been, within a few days, robbed in the streets, it was thought necessary to republish in the Gazette of this day His Majesty’s proclamation of £100 for taking any robber, &c. in the cities of London and Westminster, or within five miles of the same, with a promise of pardon to impeachers.”

Mr. Henry Fielding was induced, about this period, to publish a work entitled “An Enquiry into the Causes of the late Increase of Robberies, &c., with some Proposals for Remedying them,” and dedicated the book to Lord Chancellor Hardwicke.

The gaols were also much crowded with criminals, owing to the number of people belonging to the army and navy, who had been turned adrift at the peace, and now lived by committing depredations of various kinds. A dreadful fever broke out among the prisoners, which spread rapidly, and carried off several of those concerned in the administration of justice at the Old Bailey, among them the Lord Mayor, Mr. Justice Abney, Mr. Baron Clarke, and many other persons. It was generally supposed to be the gaol fever. Lord Chancellor Hardwicke, however, appears to have entertained some doubt whether it was that disease which occasioned so extraordinary a mortality at this time. In a letter to the Duke of Newcastle, about the appointment of successors to Sir Thomas Abney and Mr. Baron Clarke, Lord Hardwicke says,—

“The town will have it that this mortality has proceeded from an infection caught at y^e sessions at y^e Old Bailey, since Easter; my Lord Mayor being also dead of the same distemper, & several other persons who attended there. But I cannot see a sufficient foundation for that opinion, the gaol not having been more sickly

than ordinary at y^t time, but, as the Recorder assures me, rather the contrary.”*

The extract which follows, from a letter by Mr. Jones, to his uncle Lord Chancellor Hardwicke, is here given as an additional refutation of the calumny cast upon this great and good man of having neglected his needy relatives, when he himself rose into opulence :—

. . . “ I could not however excuse myself, if I omitted to take the first opportunity of expressing the sense I must ever have of the constant attention your lordship is pleas’d to show, to the welfare & interest of our family; and, particularly by the disposition you have lately been so good as to make in favour of my sisters.”†

In the early part of the year 1750 the King again visited Hanover, where he was accompanied by the Duke of Newcastle, and Lord Chancellor Hardwicke was again appointed one of the Lords Justices.

The Prince of Wales, who still continued at open variance with His Majesty, during the month of May sought an interview with the Chancellor and the Archbishop of Canterbury, on a matter relating to the Royal Family.

Lord Chancellor Hardwicke, in a letter to the Duke of Newcastle, who was then at Hanover, gave the following very interesting account of the conference in question, on which occasion the judgment, firmness, and at the same time respectful demeanour of the Chancellor towards His Royal Highness are fully apparent. The position, indeed, was one of great delicacy and perplexity :—

“ On Wednesday, 30th May, we were both sent for to be at Leicester House at y^e same time, & introduced to-

* Hardwicke MSS., Wimpole.

† Ibid.

gether. The Prince had in his hand your Grace's letter to y^e D. of B.,* which contained nothing but His Majesty's satisfaction on y^e birth of his grandson, & y^e Princess's happy delivery, & w^{ch} he said y^e D. of B. had sent to Lord Egmont, then in waiting. He told us that he had sent for us as y^e two first of y^e regency, to desire our advice what he sho^d do. That he had writ to y^e King to desire orders ab^t y^e name of y^e Prince, & godfathers & godmothers, & nothing was said to that; & y^e D. of B. being then at Wooburn, he co^d not see him. I sho^d observe, by the way, that he did not seem to impute this to y^r Grace, but rather to insinuate y^t it might proceed from y^e King. He then enlarged upon y^e impropriety of delaying y^e christening, y^e inconveniencies, by confining the Princess, &c., & repeated, 'My lords, what wo^d you advise me to do? May I proceed to christen y^e child, or wait for further orders from Hanover?' The Archbishop then asked what directions His Majesty used to give on such occasions when here? He answered, 'None, except once, ab^t Louisa. He believed His Majesty might have said, 'He may do as he will.' I then saw he had a mind to lead us to give an opinion that y^e King meant by this silence to leave y^e whole to H. R. H. And really I was then inclined, in my own mind, to think that His Majesty might mean so, but wo^d not condescend to say it. However, I thought it was best to be alive, & said—It was an affair y^t had never come before y^e Lords Justices, nor was proper to do so, being of a private & delicate nature in y^e Royal Family; that even your Grace's letters had not yet been laid before them, & as H. R. H. was pleased to ask our opinion as two of y^e Lords Justices, it was impossible for us *alone* to give any. But, as y^t letter wo^d probably be laid before you at their

* Duke of Bedford.

meeting y^e next day, wo^d H. R. H. have us say anything to them? His answer was, Pray tell them what I have said to you two; I tho^t this letter had been before y^e Lords Justices, tho' by y^e way, he must have known there had been no meeting since it arrived. He desired we w^d let him know y^e next day, at Carlton House, what was y^e Lords Justices' opinion.

“The next day, when y^e Archbishop informed y^e Lords Justices of this affair, Mr. Aldworth, in a whisper, acquainted Mr. Pelham with your Grace's private letter to y^e D. of B., giving an exclusion to any persons disagreeable to y^e King, particularly to a certain family. This your brother took care to convey privately to y^e Archbishop & me, & it gave a new turn to y^e whole, & we induced y^e lords to instruct his Grace & me to acquaint His R. H. y^t their Excellencies co^d not take upon them to give any opinion in y^e matter; but Mr. Pelham & I directed Aldworth to write pressingly to y^e D. of B. to come to town forthwith & execute his orders. When we repeated y^e answer, y^e Prince was civil to us, but said, What can I do? I can't see y^e D. of B., he don't come to town till Wednesday; *turning to y^e Archbishop*, I believe my child must be an Anabaptist; *to me*, the Princess must go privately to Kew, & to excuse her not seeing company we must publish some paragraph in y^e papers y^t y^e child can't be christened yet, because orders are not come from Hanover. I presumed, as decently as I co^d, to fling out some objections ags^t this method, & so we made our bows. The Duke of Bedford came to town on Sunday, & I know nothing further.”*

But, notwithstanding the alarms which haunted the members of the cabinet, from the conduct of the Prince

* Hardwicke MSS., Wimpole.

of Wales—whose succession to the crown seemed so near—and which ought to have promoted unanimity and confidence among the ministry for the sake of their common interest, the Duke of Newcastle appears to have been as jealous and suspicious as ever; and on each occasion, both towards his brother and the Chancellor, whom he professed to regard as a second brother—and certainly treated with the same captiousness and querulity as he did his natural brother—his Grace was continually giving vent to his sentiments of this nature, and for which every little circumstance that arose was made to furnish a pretext. In one of the letters to the Duke from his official “brother,” dated July 5th, Lord Hardwicke thus addressed him:—

“For God’s sake, my dear lord, don’t imagine that my not writing by every opportunity proceeds fro’ any reserve towards you, to whom I have the most faithful attachment, & with whom I have no reserve. The real reason is that my time has been so entirely taken up by very long & intricate causes, w^{ch} have required consideration as well out of court as in it, that in truth I have not had leisure frequently to write letters of political speculation, or to write at all oftener than necessity required. And, if this sho^d happen again, be so kind as to impute it to this unavoidable cause.”*

By another letter written shortly after, from the same to the same, it appears that the natural brother was in all respects treated with the same tokens of suspicion and distrust as the political one.

“Your brother was very full of complaints of y^e manner in which your Grace takes some expressions in

* Hardwicke MSS., Wimpole.

his letters ; disclaimed the meaning you put upon them ; & protested that there was no change in him ; that he had no intention to give you the least offence.” *

Soon after this, however, a letter was addressed by the Lord Chancellor to the Duke of Newcastle, the length of which must have been highly gratifying to his Grace, so far as he was wont to consider his correspondent's regard and fidelity to be proportionate to the dimensions of his epistles. In the letter in question Lord Chancellor Hardwicke enters very fully into the general state of affairs ; alludes to the alleged coolness between the King and the Duke ; tells his Grace of the discussions which he had lately had with Mr. Pelham, and explains his own views with respect to some changes in the ministry which the Duke had proposed. On this latter topic he observes :—

“ After having drudged in the laborious office of Chancellor near fourteen years, I have no fondness to keep it longer, especially at near three score. It is a constant round of the same fatigue. The incentive of ambition is quite over. The profits of it I do not now want or value ; & if I cannot have the satisfaction of serving with my friends, I can have nothing to make it tolerable.” †

The see of Durham became vacant during the month of July, 1750, on which occasion Lord Chancellor Hardwicke wrote immediately to the Duke of Newcastle, to solicit that that very distinguished ornament of the Church, Bishop Butler, then Bishop of Bristol, might be translated thereto. In a letter dated “ Powis House, July 20th,” Lord Hardwicke, after informing the Duke

* Hardwicke MSS., Wimpole.

† Hardwicke MSS., Wimpole ; Coxe's Pelham.

of Newcastle of the vacancy in question, thus proceeds:—

“ I am not unacquainted with the gracious intentions which His Majesty formerly expressed towards my old acquaintance & valuable friend the Bishop of Bristol, in case some of the great bishopricks sho^d become void.” *

Accordingly, the Duke of Newcastle in his reply to Lord Chancellor Hardwicke, dated “ Hanover ^{July 27th, ”} _{Aug. 7th,} tells him—

“ I this night send an account to the Bishop of Bristol of his being to be appointed Bishop of Durham.” †

It appears, however, from a letter which was addressed by Bishop Butler to the Duke of Newcastle on this occasion, that the latter, unknown to Lord Chancellor Hardwicke, endeavoured to enter into a stipulation with that distinguished and virtuous prelate, for a promotion of a friend of the Duke, as a condition to be annexed to his own advancement, to which the Bishop of course, with strict propriety, at once peremptorily refused to accede.

Lord Chancellor Hardwicke tells the Duke of Newcastle, in one of his subsequent letters to him :—

“ I hear the people of Durham are extremely pleased with His Majesty’s nomination of y^e Bishop of Bristol to y^t sec.” ‡

The persons promoted in the Church at different periods by Lord Chancellor Hardwicke, were, notwithstanding the censure that has been bestowed upon him by some of his biographers,§ neither few in point

* Hardwicke MSS., Wimpole.

† Ibid.

‡ Ibid.

§ Lord Campbell’s Lives of the Chancellors ; Cooksey’s Anecdotes.

of number, nor undistinguished as regards their merits and their acquirements. But of all those whom he was instrumental in advancing to a high station in this profession, there was undoubtedly no one who was more deserving of the Chancellor's interest on his behalf than the pious, learned, and highly gifted Bishop Butler. Between these two eminent men a firm friendship existed, which no mere political differences could serve to disturb, and which only terminated with the death of this venerated prelate.

In one of Lord Hardwicke's letters to the Duke of Newcastle—who still continued with little intermission his accustomed course of grumbling at his colleagues, and levelling his reproaches of every variety against them, by turns—the Chancellor thus describes his fatigues and weariness at the termination of his “Chancery Campaign” in August, 1750.

“After as long & tedious an attendance in Chancery as I ever knew, I finished my seals yesterday. . . . I humbly hope His Majesty will not dislike y^e permission y^e lords justices have given me to go out of town. Indeed, I am almost worn down, & much want a little recess & exercise after y^e long sedentary fatigue I have gone thro’; & if His Majesty's usual goodness & condescension for me, w^{ch} I have so frequently experienced, shall induce him graciously to approve of this, it will make me very happy.” *

Lord Chancellor Hardwicke wrote a letter to his eldest son about the same time, and on the same topic; in which his affectionate regard for the different members of his family is forcibly shown.

“The wetness of the season of late has given me but

* Hardwicke MSS., Wimpole.

a melancholy prospect, but this change affords some comfort. . . . The attendance has been long & close, & I promise myself much relief in the recess, & enjoym^t of my friends. . . . I have fixed my journey, (God willing,) for Monday or Tuesday next. Your mother & I both long for dear Lady Grey's & your good company at Wimpole, which we hope you will not delay longer than the beginning of the week after next, & the earlier you come in that week, the more obliging it will be. Lord & Lady Anson propose to set out to-morrow morning for Staffordshire, & to make a visit at Wrest in their way, so that you may probably see them in a few hours after this letter. 'Tis a sad disappointment to poor Jack to be tied by the leg in a literal sense, but I hope he will be well enough to go with us. 'Tis an ugly humour in his blood, which I believe the exercise & excessive heat of the Norfolk tour set afloat; but Mr. Hawkins apprehends no ill consequence from it, tho' it will require care & caution in the patient. Nothing has been heard of Charles since he set out on Saturday morning. God grant him health, & an improvement of it by this jaunt." *

An allusion to a matter of professional interest is contained in the same letter.

"You did very right in taking your part in doing the honours of the county at the assizes. . . . I don't wonder at what you write about the senior judge. Such starts & sallies are incident to his constitution; but I always thought it imprudent in a judge to make himself unpopular with the bar."

By a letter which the Chancellor wrote to his son on

* Hardwicke MSS., Wimpole.

the 26th of August, we learn that he was then reposing at his beloved Wimpole. But the same epistle which apprizes us of this agreeable circumstance contains the following mortifying announcement:—

“I was yesterday summoned to be in town on Wednesday evening. This is hard, but I hope to return on Saturday.” *

This letter also states,—

“Poor Johnny is not tied by the leg in London, but here. His journey did him no hurt; but I don't see that his complaint alters much. . . . Your coming will give him great comfort.”

During an audience which the Duke of Newcastle had with the King about this time, his Grace having made an observation respecting the silence and negligence of the Duke of Bedford, the King observed, “He has nothing to write about, he is a mere subordinate minister. His office is a sinecure, and he may as well fill it as any other.” His Majesty then added, “You, and your brother, and the Chancellor, are the only real ministers, the rest are ciphers.” *

The Duke of Newcastle and Mr. Pelham were very anxious that the Duke of Bedford should quit the post of Secretary of State which he held in the government, and accept some other office unconnected with the administration of affairs, such as the Mastership of the Horse. The Duke of Bedford, however, appears to have been by no means discontented with his situation, and was averse to discontinue his services to his country. Some diversity was occasioned by the discussions between the

* Hardwicke MSS., Wimpole.

† Coxe's Pelham.

Pelhams on this subject, and we are told that Lord Chancellor Hardwicke's interposition was several times required to restore harmony between the brothers, in which his efforts and influence proved successful.

The King at this time took some offence against Lord Harrington, and contrary to the wish of Mr. Pelham, refused to continue him in the post of Lord Lieutenant of Ireland, and was wont to speak of him in terms which were at least the reverse of complimentary.

In a letter which was written on the 10th of October, by the Duke of Newcastle to Mr. Pelham, about the persons proper to be introduced into the ministry, the name of Lord Granville was mentioned, but objected to on the ground that "my Lord Chancellor is personally hurt by him."

The following familiar epistle from Lord Chancellor Hardwicke to his old friend and the companion of his earlier years, Mr. Philip Ward, whose letter to him in the year 1718, when they were both commencing their career at the Temple together, has been given in a preceding chapter, will be read with interest, and is one of the few letters of this kind by Lord Hardwicke which have been preserved. The deficiency of correspondence of this sort, except from his family or persons of public note, and the want of personal anecdote about him, are in a great degree the necessary result of the constant professional and public engagements with which his whole time was occupied.

*"Wimpole, Sept. 8th, 1750.**

"DEAR SIR,—I return you my thanks for the favour of your very kind letter, which I received at this place on Thursday last. It gave me the greatest concern to

* Dr. Birch's MS. Collect. Brit. Mus.

read the account of the bad state of your health, and that it has continued so long upon you. I feared some interruption of that kind had been the unhappy occasion of my not having had the pleasure of hearing from you so long. And though I had no particular account of your condition, yet my most ardent wishes always attended you for your recovery & welfare. We are all liable to such accidents in life, & my own years put me in mind that I must soon expect to partake of them, tho' by the goodness of Providence, I have hitherto escaped any considerable shock. The aids of reason & religious philosophy are the best resource in such cases. I know your mind is well prepared with such supports. However, I doubt not with proper care & remedies you will find relief, & you have my prayers for your speedy recovery.

“I hope you will find yourself well enough to perform your intended journey with more ease than possibly you may flatter yourself with at present. It will give me great pleasure to see you here; but your friendship will, I know, permit me to make use of the liberty you give me, & which I have formerly taken, to let you know the state of my engagements. It appears not unlikely that, about the time you mention, Lord Anson & Mr. Heathcote, with their families, who have appointed to be here, will still be with us, w^{ch} with Mr. Yorke & Lady Grey, who are already come, will make this house so full that I fear we shall hardly be able to accommodate you to your wish, & so as to be quite at your ease. Therefore, if you can order it so as to take this place in your return from London, when some of them will have quitted their quarters, I feel persuaded you will then find more quiet & convenience than in such a crowd of guests. I know your friendship too well to make any apology for

this, & will add no more but the repetition of my wishes for the re-establishment of your health, & the sincerest assurances that I am always, with the greatest respect & esteem, &c.

“HARDWICKE.”

In writing the life of a great public man, whose mind largely influenced the events of his time, the narration of those events, and of the manner in which he directed them, will sometimes be the best and most interesting portion of his biography that can be afforded, inasmuch as he derived his main importance from those occurrences, and they moreover owed their origin and course to him. By this is fully shown at once the nature and the bent of his genius, the most material part of a biographical history; and it is this that I have mainly sought to attain in the present memoir.

In the case of Lord Chancellor Hardwicke, the general course of events around him form an essential part of the history of a life which was so entirely spent in public, which was so much influenced by these transactions, and whose efforts in turn so extensively influenced them.

The domestic incidents of character and interest in the social life of a public man, especially one of the leading importance and activity of Lord Hardwicke, beyond what he records of himself in his letters, are so few and so trivial as to be hardly worth notice. Indeed, such a man is scarcely permitted to enjoy any thing of the luxury of private life, or has any moments to himself when the mind may follow its natural bent, and float in the stream of its own inclinations. His very social hours are stolen by state entertainments; his evenings devoted to official meetings. Every thing is converted

into mere dry routine. As regards his daily habits, barely anything more can be given by way of description of them than that he rose in the morning,—worked hard all day,—and went to bed at night; though the monotony of the latter will be sometimes broken by his important state duties.

When we add to this general account of his everyday pursuits, what we learn from different sources, that his conversation was agreeable and sprightly, that his information was extended, and his associates men of intellect and cultivation, we have tolerable data from which to form an idea of his domestic life,—what there was of it.

The value of the private and familiar correspondence, illustrating the sentiments and feelings of those great men who have occupied a prominent position on the stage of public life, is very extensive as serving to convey to us the best and truest notion of their real characters, which are often found on this close inspection to be very different to what was before supposed. As the ocean, when the tempestuous winds which agitated it are lulled, and its vast waters repose in tranquillity, allows the eye to penetrate the mighty depths beneath its surface, and displays the various rocks and shells which form the shore below, but which when agitated by tempests and boiling surf were shrouded from our view; so these great men, when actively engaged in public life, and agitated by the storms of political warfare, and conscious of the public gaze being upon them, appear in very different characters, and display feelings and dispositions vastly dissimilar to what they will be found to exhibit to one another when their real tempers and inclinations are developed, in the still calm of their retirement and social intercourse.

A passage in a letter of Lord Hardwicke to the Duke of Newcastle, which bears date "Powis House, Oct. 19th," apprizes us that the Chancellor's period of rest and recreation had now terminated, and that he was again engaged in his arduous professional labours.

"I removed from Wimpole to this place on Saturday last, & am once more embarked in the Chancery galley."*

The following abortive effort of this great lawyer, whose patient assiduity had accomplished so much in other departments, to soothe and satisfy the jealousies of his distrustful and suspicious colleague, is contained in the same epistle.

"It gives me the greatest concern to find y^e same kind of correspondence continued, which I flattered myself, from certain explanations in some of the former letters, had been totally at an end. . . . At least be content to let it rest so till we have the happiness of seeing you in England, & then I firmly believe you will meet your brother in good humour, & many of these disagreeablenesses will subside & wear out of themselves, which by writing & being commented upon, are kept alive, & temptations administered to a little pride & some positiveness, to enter into justifications."

In September of this year,† it has been said, that the young Chevalier came disguised and secretly to London, in company with Colonel Brett; and that they examined together the exterior parts of the Tower, one gate of which they thought might be beaten down with a petard.

* Hardwicke MSS., Wimpole.

† A letter of David Hume, the historian, to Sir John Pringle, M.D., mentions the above visit as occurring in 1753.

From thence it is asserted they went to a lodging in Pall Mall, where about 50 of the young Prince's friends were assembled, among whom were the Duke of Beaufort and the Earl of Westmoreland. The Pretender declared that if they could have assembled only 4000 men, he would publicly have put himself at the head of them. He remained in London about a fortnight.

It has been also stated that the King had a secret intimation of his visit, and took an opportunity, a day or two afterwards, of inquiring from the Secretary of State where the Pretender might be at present. The minister answered that he would consult his last despatches from France. "You may save yourself the trouble," rejoined His Majesty, "for I can tell you he is now here in London." The minister started, and proposed that a cabinet council should be summoned. "No," said the King, good humouredly; "leave him alone; when the gentleman shall have looked about him a little, he will no doubt return quietly." One fact, however, is at variance with the truth of this story. During the whole of September in this year, the King was at Hanover.* This is evident from some of the foregoing letters; and the following passage in one of Lord Chancellor Hardwicke's to the Duke of Newcastle, who was then at Hanover with the King, informs us of all that was known, and all that was done on this occasion by the Government.

"As to y^e intelligence fro' Berlin abt y^e Pretender's eldest son being in Staffordshire, it was thought here that there might be some objections ags^t laying it before y^e Board of Regency, w^{ch} w^d have been attended with a minute,† & might have caused an alarm in y^e nation.

* Lord Mahon's Hist. Eng. † A minute, or note of their proceedings.

The method taken was, to communicate it to such of those lords (who are consulted on the most secret affairs) as are in town; & directions have been given for inquiries to be made in a private manner, & to draw as many troops about those parts as conveniently can be. I hope your Grace will think this right; for, indeed, I cannot in my own mind give credit to this intelligence for two reasons. 1st. It is inconsistent with y^e account lately sent by Lord Albemarle of the latter, received from him at Paris within two days after y^e date. 2^{ndly}. If he landed in any part of this kingdom, it must be with a design to raise an insurrection in his favour; & surely, if any time was proper for that, it must be when the King was abroad. How then co^d he & his adherents lye quiet till His Majesty's return?"*

However, Dr. King of St. Mary's, who was a noted Jacobite, declared that he had had a visit from the young Prince at this period, of which he has left an account among his published anecdotes.

The King returned to England at the commencement of November, and in high health and spirits, though he had a stormy passage by sea, and, according to the correspondence of this time, his domestic life, both as regards his intercourse with his family and his ministers, was not of a more pacific character. Something, nevertheless, of a peace, though not of so satisfactory or permanent a nature as that effected by the treaty of Aix-la-Chapelle, seems to have been established between those warring powers, the King and the Prince, at this juncture; or, at any rate, a temporary suspension of hostilities was happily achieved on the occasion of His Majesty's birthday being celebrated.

* Hardwicke MSS., Wimpole.

On the whole, however, the condition of the Court, and the state of things in the cabinet itself, the uncertain temper of His Majesty, and the continued and harassing jealousies and disquietudes of the Duke of Newcastle,—about which indeed there was no uncertainty,—must have proved at this period, and for some years past, the sources of no small perplexity and uneasiness to the Lord Chancellor, and must have made him long in earnest for that retirement, the prospect of which is, perhaps, after all, the most agreeable object amidst the dazzling and gorgeous enchantments of official power, which are present to the eye of those in the exalted station this great man had so long and so honourably filled. In a confidential letter written to his son, Colonel Yorke, a short time before, Lord Hardwicke observed:—

“ The great difficulty is, how to keep this administration together on any terms.”*

And in one to the Duke of Newcastle, the Chancellor thus alluded to the declining health and advancing years of the sovereign, the prospect of whose demise,—an event which in the course of nature could not be very far distant,—was fraught with apprehensions of the most serious nature to those now in office.

“ Your Grace mentions your resolution not to take another Hanover journey. God knows that is a very remote consideration. You are a much younger man than the King. Look forward to His Majesty’s age two years hence, and consider what is the probability of another Hanover journey, especially if infirmities sh^d increase.”†

* Hardwicke MSS., Wimpole.

† Ibid.; Coxe’s Pelham

Rumours, indeed, of the Lord Chancellor's resignation were now afloat. Horace Walpole, in one of his letters to Sir Horace Mann, written in November, says :—

“The talk of the Chancellor's being President, in order to make room, by the promotion of the Attorney* to the seals, for his second son to be Solicitor, as I believe I once mentioned to you, is revived; tho' he once told Mr. Pelham, that if ever he retired it should be to Wimple.”†

And for this retirement, and the peaceful enjoyment of his beloved Wimpole, in the circle of his family, at the head of which he shone as much in his domestic capacity as he did when administering justice as the first judge of the nation, must he often now have longed in real earnest; and to pass in quietude the remainder of a life which, though uniformly prosperous, had been one of continued excitement and intense anxiety. He had presided as Lord Chancellor long enough for his own glory, and nothing more that could gratify an ambition far greater than he appears to have possessed, remained for him to achieve. The wealth that he had acquired for his family, together with that which his eldest son had secured by his marriage, was now enormous. The Chancellor's fame, both as a jurist and a statesman, was extended throughout the civilised world, and acknowledged by all who could appreciate his exalted attainments. His power, both from his personal influence and the high office which he held as the head of the law, and, in the absence of the King, the leading director at the Regency board, was only second to that of the sovereign himself. But probably now, amidst all the disquietude and irksomeness which they

* Sir Dudley Ryder.

† Correspondence of H. Walpole.

engendered, Lord Hardwicke found a real pleasure, that nothing else could supply, in the exercise of those great official and judicial duties, to fulfil which so ably and so perfectly he alone knew how ; and to appreciate adequately the charm of performing which, requires the ability to execute those important functions, as he only was capable of discharging them.

A very elaborate and finely reasoned argument was delivered by Lord Chancellor Hardwicke, on giving judgment on the 4th of February, 1750, in the case of “The Earl of Chesterfield & al^s *con.* Janson, Bart.” A draught of this argument, in the Chancellor’s own handwriting, is among his papers.

Referring to a point that had been urged by counsel,—

“That contracts upon contingency are to be distinguished : that a plain, fair wager upon a chance, is not within the statute, because it is no loan.

“But if there is a loan of money, with an agreement to receive back more than the principal and legal interest, in any event ; there, although a contingency be thrown in, upon which the whole *by possibility* may be lost, this is usurious, and contrary to the statute.”—

Lord Chancellor Hardwicke thus proceeded to state fully his own opinion on this subject :—

“I will not enter into a critical dispute, how far any such contract upon a fair contingency, by y^e falling out of which one way, the whole money may be lost, is in

strictness a *loan*. The civil law has very refined distinctions on this head.

“ *Commodatum* & *mutuum* are their proper technical terms for a loan, where the *thing lent* is to be restored *in specie*, which is one species of *Bailment* in the co'mon law of England. By the second, the civilians mean a loan, where the *thing lent* is to be restored *in genere*. But in both these, the *thing lent* was to be restored in all events, & nothing was to be paid for *the use or hire of it*.

“ Where any thing was to be paid for the *use or hire*, it was termed by the Roman lawyers, *locatum* & *conductum*; and, perhaps, all our *loans of money at interest* w^d, in strictness of their law, come under y^e head of *locatio* & *conductio*.

“ But it is clear that the law of England, tho' as to personal property, much derived from the civil law, has not adopted those minute distinctions. That we mix and confound together their *commodatum* & *mutuum*, is plain from the known form of every declaration in an action upon y^e case for money lent, w^{ch} is always described by both terms—*mutuo data* & *accommodata*.

“ In like manner, tho' interest is to be paid for it, it is with us, still a *loan*. So, tho' money be advanced upon a risque, & by a contingency it may be totally lost, 'tis still allowed to be a loan of money; & all our law books, which treat of Bottomry, call it money *lent upon bottomry*.

“ Further, that in the notion of the law of England, there might be a *loan* upon a risque or contingency, is plain, by y^e express words of the statute, 11 Hen. VII., c. 8, which was cited at the bar for another purpose.”

He then expressed himself thus on the general subject of unconseionable bargains and contracts, and relief against them:—

“No wise & good man can say, that contracts of this kind deserve to be encouraged; for they, generally, if not always, proceed from excessive *prodigality* & *extravagance* on y^e one hand, & *extortion* & *avarice* on the other.

“These are prolific, & generate one another; &, as they are *vitia temporis*, & extensive in their pernicious consequences, if any court has a proper jurisdiction, & is warranted by rules, or a course of precedents, to restrain them, it is their duty so to do.

“This Court has an undoubted jurisdiction to relieve against every *species of fraud*.

“1. *Fraud*, which is *dolus malus*, may be *actual*, arising from facts & circumstances of imposition or circumvention, committed by one man upon another.

“This is the plainest case.

“2ndly. *Fraud* may be *apparent* from the intrinsic nature & subject of the bargain itself; such as no man in his senses, and not being under a delusion, w^d make on the one hand, & as no honest, conscientious man w^d accept on the other.

“These are called *hard, unequal, unconscionable bargains*.

“3rd. *Fraud* may be shown from the *circumstances or condition* of y^e persons contracting.

“This seems to go further than the rule of law, which says *fraud* must be *proved*, & *not presumed*.

“But it has been wisely established, in this Court, to prevent one man from taking an unjust, or surreptitious, or extorsive advantage, either of the *weakness* or *necessities* of another.

“Knowingly & designedly to take an unjust advantage of another man’s *necessities* is equally against conscience, as to take the like advantage of his *weakness or ignorance*.

He is equally incapable of acting or judging freely, or taking care of himself, in y^e one case, as in the other.

“ 4th. Fraud, or *dolus malus* may, in the consideration of this court, be collected or inferred from the nature & consequences of the transaction, as being an imposition or deceit upon other persons, not parties to the fraudulent agreement.

“ Of this kind are the cases of marriage-brocage contracts, for in them neither of the parties to the contract for brocage are defrauded or deceived, but they necessarily tend to the deceit or delusion of one of the parties to be married, or of their parents, guardians, or friends.

“ So of private clandestine agreem^{ts} to return to a parent or guardian part of the portion of the wife, or of the provision stipulated for the husband. In most of those cases the parties to the clandestine agreement know what they do, but the *fraud or deceit* operates ags^t one of the parties to be married, or their friends who transacted the public marriage agreement for them.

* * * * *

“ So of premiums contracted to be given for preferring or recommending persons to public offices or employm^{ts}. Neither of the parties to these agreements is defrauded or deceived. They proceed with their eyes open, & intend what they contract. But the persons who have the legal authoritative appointm^t to these offices, are or may be deceived by it; or, if y^e p^{son} agreeing to take the premium has in himself the authority to appoint, it tends to the deceit & prejudice of y^e public service, by making way to introduce an *unworthy object* for an *unworthy consideration*.

“ The stating of these cases, thus generally put, shows

what courts of equity mean, when they profess to go upon reasons drawn from *public utility*. In order to weaken the force of them, they have been called *political arguments*, & introducing *politicks* into the decisions of courts of justice.

“ This was showing the thing in a light which best served the argument for the debt, but far from the true one, if the word *politicks* is taken in the common popular acceptation. But if it is considered in its true original meaning, it comprehends everything, that concerns the good governm^t, public policy, or order of a country, of which y^e administration of justice is one essential & principal part. And in this sense, such *political argum^{ts}* have been & must always be admitted, both in courts of law & equity.

“ To apply this. How far is this relief dispensed in courts of equity founded on *public utility*, or how far is *public utility* or any *political principle* concerned in it? Thus far, & in this sense.—Particular persons in their contracts shall not only transact *boná fide* between themselves, & not cheat or deceive one another, but shall not transact *malá fide* ; there shall be no *dolus malus*, in respect of other persons who stand in such a relation to either of y^e parties as that they may be affected by y^e contract, or the direct consequences of it. And, as the rest of mankind, besides the particular parties contracting, are concerned in this, it is properly s^d to be grounded on *public utility*.

* * * * *

“ I am sensible I stand in need of much excuse, for having spent so much time on this subject, when y^e judgm^t I am going to give will not turn upon it. But I have done it that the work of this day may not be misunderstood ; & that it may not be rumoured abroad

y^t the former precedents had been shaken ; that this court was departing from the principles my predecessors had wisely established ; & that a license was proclaimed to every iniquitous & unconscionable bargain, because *voluntarily*, & what is vulgarly called *fairly* entered into : like what is called *killing fairly* in a duel, which yet the law never allows an excuse in *murder*.

“ It is so notorious that it wants no proof, that annuities for life, junctions, post obits, extorted or supplied from young gentlemen, before they feel the weight & value of their estates, are grown into a settled traffic ; that there are brokers for them about this town, who perhaps set, always encourage them. This must & ought often to abate y^e weight of appearances of *fairness* in y^e p[’]son whose money is advanced. He may be kept behind y^e curtain, when y^e broker, y^e real transactor, may know y^e whole.

“ I was the rather desirous to shut the door against such a misapprehension, for fear it shou^d have the consequence, which my Lord Cowper suggests did probably follow upon my *Lord Nottingham’s* first determination in y^e case of *Bernay & Pitt*, that the practice of devouring young heirs took heart, & increased from that decree.”*

The case of *Hall v. Hall* is a somewhat singular one, where the refractory conduct of an Eton boy, who was a ward of the court, rendered necessary an application to Chancery to compel him to comply with the desire of his guardian.

“ The lad of sixteen years being present in court, and having no reasonable grounds of complaint against the master of the school, Lord Chancellor would not indulge him in being put to a private tutor, or

* Hardwicke MSS., Wimpole.

going to another school, but said his guardian was the proper judge at what school to place him, and where he had sent him was a school of very great reputation, and that if he should refuse to go he would take the proper course to compel him.

“ His lordship mentioned an instance in Lord Macclesfield’s time of a young gentleman who had been placed by his guardian at the University of Cambridge, and on his absenting himself from thence and refusing to return, Lord Macclesfield, on application to him by the guardian, sent him to the University in the custody of his own tipstaff.

“ Here the lad agreed to go back to Eton, and was indulged by the court in a fortnight’s time for that purpose.”*

* Atkyns’s Reports.

CHAPTER XI.

1751—1754.

DEATH OF THE PRINCE OF WALES; OF LORD BOLINGBROKE—REGENCY BILL—ABROGATION OF THE JULIAN STYLE—THE KING AND HIS MINISTERS—LORD HARDWICKE AT WIMPOLE—HIS SPEECH ON THE FORFEITED ESTATES BILL—FIRE AT MR. C. YORKE'S CHAMBERS—VISIT OF THE CHANCELLOR TO GUILDHALL—BISHOP SHERLOCK AND LORD HARDWICKE—PROMOTION OF DR. WARBURTON—CHARGE AGAINST SOLICITOR-GENERAL MURRAY—CLANDESTINE MARRIAGE BILL—JEW BILL—LORD CHANCELLOR HARDWICKE'S VISIT, AS LORD HIGH STEWARD, TO THE UNIVERSITY OF CAMBRIDGE—EXECUTION OF DR. CAMERON—REPEAL OF THE JEW BILL—DEATH OF MR. PELHAM—THE DUKE OF NEWCASTLE APPOINTED PRIME MINISTER—ADVANCEMENT OF LORD HARDWICKE TO AN EARLDOM—JUDGMENTS OF LORD CHANCELLOR HARDWICKE IN BISHOP OF MAN CON. EARL OF DERBY—GARTH CON. COTTON—TONSON CON. WALKER—EX PARTE SCHOMBERG—CHETWYND AND WINDHAM.

THE hopes of the opposition, the distractions in the royal family, and the apprehensions of the Chancellor and his colleagues, were at once cut short by an event which was as sudden as it was unlooked for. On the 20th of March 1751, Frederick, Prince of Wales, died. His illness assumed a serious aspect but a few minutes before his decease.

Few events in the history of the annals of this country have been productive of consequences more extensively important than the deaths which have occurred of Princes of Wales. Had it not been for the loss of his elder brother, Prince Arthur, Henry the Eighth would not have been an English monarch; and it was only by

the decease of Prince Henry, that King Charles the First succeeded on the death of James to the sovereignty of these realms. How vastly different in all human probability would have been the issue of events, not only at the precise period in which they lived, but in all succeeding time, had either of these monarchs not ascended the throne at these very critical junctures.

In many respects, perhaps, the death of Prince Frederick was productive of consequences no less important than the decease of either of the two Princes to whom I have referred. What his actual qualities and capacities for government were, except as appears by his conduct as a rather vehement and not very discreet partisan of the opposition to his father's ministry, and his occasional letters and declarations to the leaders of his party, we have not much whereby to determine. Some of the opinions of those well enabled to judge of his character, from their personal knowledge of him, are inserted here. As regards the course which as a Sovereign he might have been expected to pursue, it is not unreasonable to suppose that, considering the condition of affairs which at that time prevailed, and the difficulties he must necessarily have had to encounter, his natural incautiousness and impetuosity would have been attended with very ill effects, at a period when mighty organic political changes were in agitation, and the existing order of governments and their institutions were on all sides being questioned. On the other hand, the habitual caution and firmness of his son, afterwards King George the Third, and the retarding influence of his authority, which resulted from thence, were probably productive of the greatest benefit in repressing at the

outset many speculative measures and wild changes that were propounded. The resolution with which he was endowed, if on some occasions it led him into error, was on the whole a most valuable quality for such a Sovereign at such a period to possess.

The death of the Prince of Wales took place between ten and eleven at night, at Leicester House. His Royal Highness is said to have caught a cold about three weeks before in Kew gardens, and to have increased it considerably by coming very warm from the House of Lords, with the windows of his chair down, soon after which he complained of pains which were thought to be pleuritic, and were attended with fever. He had been in a declining state for some time, and was judged too weak to bear repeated bleeding; he was therefore blistered, and thought to be out of danger. About a quarter of an hour before his death he told Dr. Wilmot, who had attended him, and been up all the preceding night, that he was much better, and advised the Doctor to go home; the Princess of Wales remained with him, to whom he soon after complained of a sudden pain and an offensive smell, and immediately threw himself backward and expired. Her Royal Highness had sat up with him several nights during his illness, though in a very delicate state of health.

Among Lord Chancellor Hardwicke's papers is the "Report of the physicians and surgeons on opening the Prince of Wales's body," from which it appears that he died of an imposthume in the breast, which broke and suffocated him.

In Horace Walpole's Memoirs, it is stated that the Princess staid four hours in the room after Prince Frederick was dead, before she could be quite convinced

of it. At six in the morning they put her to bed ; but she rose again at eight, sent for Dr. Lee, and burnt, or said she burnt, all the Prince's papers.

As soon as he was dead, Lord North was sent to notify it to the King, who was playing at cards. He immediately went down to Lady Yarmouth, looking extremely pale and shocked, and only said "*Il est mort !*" He sent twice very kind messages to the Princess, who received him alone, sitting with her eyes fixed, and said she would write as soon as she was able ; and in the meantime recommended her miserable self and children to him. A little further on in the Memoirs is the following:—"31st March. The King went to see the Princess. A chair of state was placed for him, but he refused it, and sat by her on the couch, embraced, and wept with her. He would not suffer the Lady Augusta to kiss his hand, but embraced her, and gave it to her brothers, and told them 'They must be brave boys, obedient to their mother, and deserve the fortune to which they were born.'"

Horace Walpole, in a letter to Sir Horace Mann, dated April 1, 1751, says, "Prince George, who has a most engaging countenance, behaved excessively well on his father's death. When they told him of it he turned pale, and laid his hand on his breast. Ayscough said, 'I am afraid, sir, you are not well.' He replied, 'I feel something here, just as I did when I saw the two workmen fall from the scaffold at Kew.'"

Dodington records in his Diary, that the Princess of Wales, when in conversation with him about Prince George, observed of him, "He was very honest, but that she wished that he was a little more forward, and less childish at his age."

The King was advised to take Prince George under

his immediate control, and to remove him to the Palace, to ensure his being properly trained, and kept from those who would lead him in the steps of his father. This, however, he declined to do; but whether out of regard for the Princess, or through fear of the trouble he might incur, is not recorded.

In April the young Prince was created Prince of Wales, and Earl of Chester.

A letter from the Duke of Newcastle to Lord Chancellor Hardwicke, dated the 9th of April, affords some intelligence respecting matters connected with the late Prince.

“The King continues to be perfectly satisfied with the Princess, & is in raptures with the young Prince, who, he says, has taken a liking to *him*. . . . The Princess Amelia has very rightly insisted upon altering the day of the funeral, which would have been Monday, the 15th, the Duke’s birthday. It is therefore fixed for next Saturday. I promised the Duke of Dorset, who orders every thing, to give your lordship notice of it. I don’t yet know whether the ministers of state are to attend; but I will send you word as soon as I can learn anything.”*

The disputes about the Prince of Wales were not, however, suffered to die with the illustrious subject of them. Mr. Dodington mentions in his Diary that there were complaints that the orders for the Prince’s funeral were “far short of any funeral of any son of a king.” The writer says he asked Lord Chancellor Hardwicke about it, who said he knew nothing of the matter, and had seen none of the plans. There was not one English lord or one bishop at the funeral, and the service was performed

* Hardwicke MSS., Wimpole.

without anthem or organ. Such is the low estate to which even royalty is reduced when it has no longer any power to bestow rewards on its flatterers or followers!

According to Horace Walpole, and, indeed, other authorities, as will have been already seen, it was the design of the Prince and his party to oust Lord Hardwicke from the Chancellorship. Willes, Chief Justice of the Common Pleas, was to have supplied his place.

The partisans of the late Prince met together the morning after his death, at the summons of Lord Egmont, to concert a plan for their future conduct. The meeting, however, was a very cold, formal, and unsatisfactory affair; each seemed suspicious of the other; whispers were substituted for open debate; and they separated in doubt and alarm, without having done, or even determined on doing, anything. Some of them afterwards tried to make peace with ministers; some vacillated; and others feared to act in any decisive way. The break-up of the faction was complete.

The following notices of the deceased Prince are contained in Dr. Birch's original MS. Diary, as recorded in conversations with Mr. P. and Mr. Charles Yorke.

“ Friday evening, March 29th, 1751.—The Hon^{ble} Mr. Yorke visiting me, told me that the Princess of Wales had been visited the day before by Princess Amelia, who found her in a more compos'd temper of mind than was expected; & that she spake much of the Prince, her husband, with tenderness & sensibility, but without any violent emotions of grief. She said that the Prince seem'd not apprehensive of his death during his illness; but that sometime before, being ask'd why*

* Dr. Birch's MS. Collect. Brit. Mus.

he fatigued himself so much in his gardens & plantations at Kew, he answer'd that he was desirous of finishing them as soon as possible, for that he was persuaded he should not live long. She said likewise that Dr. Wilmot having inform'd her that the King had inquir'd with great solicitude about the Prince's health, she told his R. Highness of it, who was extremely affected by it, bursting into tears, & asking whether it was possible? & afterwards inquired of the D^r about it, showing the same emotion & tenderness as before. Lady Harriet Campbell dined with Mr. Yorke to-day, & inform'd him of these particulars.

“Monday, April 1, 1751.—After dinner at Mr. Yorke's, he & his brother Charles inform'd me, that having inquir'd of the Prince's character since his death from Mr. Geo. Lyttelton, that gentleman gave it to the following purpose: That His Royal Highness did not want parts but judgment, & seem'd to have quickness of apprehension; but entering deeper into any subject, appeared to have but a very slender knowledge of it. That he had read the beginnings & ends of a great number of books, but was a very superficial master of the contents of them. That he had good nature, & was easy to his family & dependents, & never said a harsh thing to them, & was dispos'd to do kind ones, especially where it would do him credit. But that he was extremely open to the impressions of ridicule & buffoonery, to the prejudice of the most valuable characters, & had a great degree of vanity in his temper. In short, that in bad hands, he might have been easily drawn to the doing a great deal of mischief.

“Mr. Allen, of Bath, made the same observation to Mr. Ch. Yorke of the Prince's seeming quickness of apprehension, though he soon appear'd to know nothing

of a subject. The Prince had convers'd three hours with Mr. Allen, at his house near Bath, last summer."

In the continuation of the same diary is the following note respecting a nobleman whose name occurs frequently in this history, but whose correspondence and intercourse with Lord Chancellor Hardwicke had for some time entirely ceased. The relation respecting Atterbury is but confirmatory of other reports of the same nature.

"*Tuesday Evening, May 14, 1751.*—Dr. Heberden told me that Lord Bolingbroke had informed him, that he had found among Mr. Pope's papers, after his death, a great number of his, Mr. Pope's, letters, returned him by his friends at his desire, in which Mr. Pope had made a great many alterations & corrections, with a view, as his *Id^p* suppos'd, of publishing them some time or other.

"*Tuesday Evening, May 28, 1751.*—Dr. Heberden told me that he had the day before been to visit Lord Bolingbroke, at Battersea, & that his *Id^p* regretted very much that he had been more than once plundered of his papers, which would have enabled him to have given the world a considerable light into the affairs of Europe, from the Treaty of the Pyrenees.

"That during a long intimacy with the Duke of Berwick, he had an opportunity of consulting his papers, from which it appeared that the French Court were in treaty with some of the English ministers to buy a peace, before the change of the ministry in the year 1710.

"That it appeared from K. James II.'s MS. Memoirs, that in the conference between King Charles II. and his sister the Duchess of Orleans, at Dover, it was debated whether to begin by extirpating the Protestant religion in England or Holland; & that K. Charles determ^d for

the latter, contrary to his brother's opinion, who was for making the first attempt in England.

“His *ld*^s left with Lord Lansdowne, when he went abroad, in 1715, seventeen important letters from the Court of France, which that *ld*'s sister destroyed, among other papers, out of apprehension for her brother's safety.

“He declar'd that he could never forgive the Walpoles for preventing his full restoration to his honours, for which he had the late king's promise, whom he knew to be a prince of the strictest probity & sincerity.

“*Wednesday Evening, June 5, 1751.*—Dr. Heberden told me that Lord Bolingbroke had assur'd him, that Bishop Atterbury made no mystery of his infidelity with regard to Christianity, frankly declaring to his *ld*^s very often, that he believed nothing of it, & thought that no other man of sense did.”

Lord Bolingbroke was at this period residing at his retreat at Battersea, and was suffering severely from a cancer in his face, which, however, caused more apprehensions to his friends than to himself as to its ultimate result. His sister, Lady Luxborough, wrote thus out of Warwickshire, on the 21st of August :—

“I must tell you one secret, which nobody in this neighbourhood knows, viz., that my brother Bolingbroke is to send a set of horses from Battersea on Saturday next, to fetch me to him. He would have had me come sooner (as being his only comfort) if I had been able. . . . My brother has a cancer on his cheek-bone, which is already an inch and half diameter, and three quarters of an inch thick. He is not under so much apprehension as I am for him.”*

On the 25th of August Lady Luxborough wrote again to her friend :—

* Letters.

“My brother Bolingbroke desires me to be less precipitate than I generally am in my journies; and adds, that he is hopeful I shall find his cancer near, if not quite extirpated, which revives me a little. If it be so, it will do honour to the person who undertook the cure, and whom Mr. Chiselden, in a letter to me, treated with some scorn, as a *cancer-curer, operator, &c.* But, before my brother employed him, he had sufficient assurances that the remedy had succeeded in a multitude of cases, which he took care to have examined and verified; therefore, he says, he should *even* be more unfortunate than it belongs to *him* to be, if it failed in his case alone. Perhaps I may bring him back with me; and who knows but we three may meet here? as to the Leasowes, I cannot answer; for I believe he will not make many peregrinations the rest of his life.”

On the 12th of December Lord Bolingbroke died. The cancer in question was considered to be the cause of his decease, & the unskilfulness of the operator before mentioned has been asserted to have contributed to it.

Horace Walpole says,*—

“Sir Robert Walpole and Lord Bolingbroke had set out rivals at school, lived a life of competition, and died much in the same manner, provoked at being killed by empirics; but with the same difference in their manner of dying, as had appeared in the temper of their lives: the first with a calmness that was habitual philosophy; the other with a rage that his affected philosophy could not disguise. . . . Both were beloved in private life; Sir Robert from the humanity and frankness of his nature; Bolingbroke from his politeness of turn, and elegance of understanding. . . . Both were extravagant; and the patriot who accused, and the minister who had been accused of rapine, died poor or in debt. Walpole was more amiable in his virtues; Bolingbroke more agreeable in his vices.”

Of the brilliancy of Bolingbroke's oratorical eloquence, we can now only judge by the effect which his speeches are said to have produced, and by the specimens of his style which we possess in his more finished written compositions. It is singular that no record of any one of his declamations, so celebrated and so imposing as they

* Memoirs.

were, has been preserved. One of the three wishes expressed by Lord Chatham in conversation with a friend, was, to see a correctly-reported speech of Lord Bolingbroke. Surely, however, one cannot help thinking, that the address and manner of the orator had, in this case, a large share in securing to him that high reputation which he possessed; and which, in one of Bolingbroke's ardent temperament and fervid zeal, must have added much to whatever he propounded. Had he excelled in any extraordinary degree in imaginative description, or originality of conception, or sublimity or beauty in his mode of expressing himself, we might have expected some relics of these to have been treasured up by his auditory, or some more ample exhibition of them in his writings; which, brilliant and eloquent as they are, certainly do not, even in the finest passages, come up to the idea which we have formed from the traditionary accounts respecting it, of his oratorical eloquence. In several of the letters of Lord Bolingbroke to Lord Hardwicke, already quoted, something of his captivating style, in the finely turned sentences, finished periods, exquisite expression of sentiment, and involution of words, is perceptible, which may be supposed to have characterized his senatorial harangues. On the whole, however, it is not improbable that his rhetoric, if Lord Chatham's wish could be realized, would be found more specious and brilliant, than solid and satisfactory; and what, when delivered from the mouth of Bolingbroke to an admiring audience, produced so thrilling and exciting an effect, might seem but tame and spiritless when read from a printed volume, in the retirement of the closet. Nor would Bolingbroke be the only orator whose fame would not be advanced by committing his speeches to the press, and thus submitting them to cool criticism.

With Lord Hardwicke, Lord Bolingbroke continued, for a long period, an uninterrupted friendship, notwithstanding the opposite nature of their political principles, and the exciting political events of that time ; and always expressed his high esteem and respect for the Chancellor. When the intercourse between them terminated, abruptly as it did, it was broken off by no difference of opinion, or disagreement. Indeed, no cause for this was ever assigned to Lord Hardwicke ; and, on Lord Bolingbroke's part, the eccentric fickleness of his mind, or some new prospect of a more hopeful alliance, is the only reason that has been supposed to have actuated him.

Had Bolingbroke had but common foresight, and common discretion in his conduct, how high a position must his vast powers and acquirements have procured for him. As it was, he is remarkable mainly as a magnificent example of great virtues totally uncultivated, and talents the most resplendent wholly misapplied. With regard to his general conduct, we might almost infer from it, and from other instances, that it is as difficult for a man of great genius to do common things well, as for a common man to excel in those requiring genius.

But still, with all this, had the life of Queen Anne been prolonged a few years, nay, even months, how different might have been the destinies of Bolingbroke, and through him of the British empire. As it happened, the death of that excellent Princess occurred just at the time when the machinations of Bolingbroke and his allies were being brought to a head ; when they were so far matured as to bring down upon the promoters of them all the ruin and desolation they had contrived for others.

Nor, when, by the partial reversal of his attainder, he was allowed to return to this country, and his estates were restored to him, was Bolingbroke a whit less de-

voted to the planning of plots and machinations for the destruction of the government than he had been in his youth. Like a bird of ill omen, he now hovered in silence near the retreat of his prey, unseen but seeing all that passed, and whenever the opportunity offered darting down at once on his victim.

The dark, gloomy, and insidious character of Lord Bolingbroke's mind is nowhere more vividly portrayed than in the letters, already quoted from, which were addressed by him to Lord Chancellor Hardwicke. However unintelligible some of them may appear, they are in this respect full of meaning and full of character. His expression of his hatred of the world, his restless efforts, his sullen thoughts, and the allusions to the deep mysterious intrigues with which his unquiet spirit was ever disturbed, serve to fill up the lines in a portrait at once striking and effective.

Like all men of the highest genius, he largely influenced the times during which he lived, and those which succeeded him. In his case, indeed, example could not do much here; and steadiness of purpose in any one direction, except that of uniform mischief, was wholly wanting. But in the original principles which he propounded in his writings, both political and philosophical, there was so much ingenuity and so much apparent truth, right and wrong were so dexterously blended together, and all was brought forth in a style so fair and so captivating, that his sentiments were as eagerly read as they were heedlessly adopted; and succeeding as well as contemporary generations continued to attest the power of his mind. Perhaps, indeed, the most fatal spring of error to mankind has been the propounding of great truths, accompanied by a simultaneous perversion of them.

Who would have supposed, on seeing a letter of Lord Bolingbroke, that the little, cramped, formal, pedantic handwriting there exhibited, belonged to a man of such extensive genius and of such wayward mind? Unfortunately for the world, which he deemed had so ill-used him, he had all the vagaries of genius without its virtues and rich fruits. His revenge on mankind, by his assaults on Christianity, served equally to evince his own weakness and his antagonists' power.

As in the case of almost every remarkable man of a remarkable age, his counterpart might well be imagined in other periods of history besides his own. And in the age now passing might no feeble likeness of the great orator and philosopher lately referred to be discerned, in one who, at least in the nobler attributes of his nature, unsullied by the vices and perfidies of the former, greatly resembles him; who has rivalled if not excelled him in the versatility of his talents, the activity of his mind, and the influence he has exerted on the present, and doubtless will exert on succeeding ages; and who, as has already been mentioned in these pages, great as is his fame as an orator in the senate, holds a yet higher position in the annals of British advocacy.

The death of the Prince of Wales rendered necessary some measure to provide for the government of the country, in case of the demise of the King before his successor should be of an age to rule the nation. The establishment of a regency was therefore deliberated on, and a message was sent to both houses of Parliament, by His Majesty, on the 26th of April, calling their attention to the subject.

The preparation of the bill was confided to Lord Chancellor Hardwicke, who was assisted by the crown lawyers.

Horace Walpole, in his *Memoirs*, directs abundant

abuse against this measure, and discovers not a little malignity against Lord Hardwicke, as the author of it. He says—

“The Chancellor drew it, and for the honour of his profession, had contrived to shew that a legal tyranny might be formed as despotic as the most usurped authority. And lest it should shock a free people, and draw an odium on the Government, he had submitted to bear the greatest share of the envy himself; for, though the bill was directed to establish the power of the Pelhams, the Chancellor was likely to have the amplest share by his own voice, and those of his creatures, the Archbishop, the Chief Justice Lee, and my Lord Anson, his son in law, whom they designed for the first Lord of the Admiralty, though in the original plan that office was omitted in the council of regency, because they had not then determined to remove Lord Sandwich.”

It is hardly necessary to justify the selection of such persons as the Archbishop of Canterbury, the Lord Chancellor, and the Lord Chief Justice, to fill the high and important offices here alluded to, further than to observe that none but Horace Walpole would have made such a selection the subject of attack, nor even he, had it not been for the purpose of maligning the character of Lord Hardwicke.

The bill was introduced into the House of Lords on the 7th of May, by the Duke of Newcastle. On the 10th it was read a second time and committed. In Dodington's Diary it is mentioned that Lord Talbot attacked some of Lord Hardwicke's arguments drawn from history in favour of prolonging the Parliament. On the 17th of May, the same interesting journalist gives the following brief sketch of the discordant proceedings on the measure. “The committee sat late. No concert between any five people, as I am told.” When it came to the third reading, it appears, however, as if a kind of reaction had taken place in the feelings of the house, for the bill was then passed unanimously.

In the Commons this measure was fully discussed, and was ably defended by Charles Yorke. The adherents of the late Prince voted mostly for the bill. None of the objections urged by Horace Walpole against the persons selected for the council of regency appear to have been once made by any person throughout the debate,—a tolerable proof of their futility. On the 22nd of May the measure became the law of the land.

The Duke of Cumberland was very indignant at his not being selected as Regent. He obtained the first information of the contents of the bill from Lord Chancellor Hardwicke, which he received in a very ungracious manner. His only reply was, “Return my thanks to the King for the plan of the regency. As to the part allotted to me, I shall submit to it, because he commands it, be the regency what it will.” That this speech might appear the more pointed, he afterwards desired Mr. Fox to repeat it to Mr. Pelham, and charged him not to leave out the word *submit*, adding, “It is a material word, and the Lord Chancellor will remember it, however he reports it.”*

Among the proceedings of this session, we must not omit to mention the bill for abrogating the Julian or old style, in the calendar, which had been retained in England long after its discontinuance by the other states of Europe. Lord Chesterfield was the main mover in the undertaking, having while abroad noticed the numerous inconveniences in diplomatic affairs resulting from the confusion of dates. Some opposition among members of the government was manifested to the plan. The Duke of Newcastle entreated Lord Chesterfield not to stir matters that had long been quiet, and added that he did not love new-fangled things. Lord Hardwicke and Mr. Pelham,

* Coxe's Pelham.

however, approved of it, and supported the measure. The Earl of Macclesfield, son of the deceased Chancellor, and President of the Royal Society, who was one of the ablest mathematicians of the age, supplied the requisite scientific demonstrations. A good deal of strong feeling and prejudice were exhibited against the bill and loud clamours raised against it ; but it passed into a law.

On the 5th of June Parliament was prorogued. The speech from the throne delivered on this occasion, in the draught of which are a few slight alterations in Lord Hardwicke's handwriting, exhorts the illustrious audience " not to suffer those good laws, which are enacted here, to lose their effect for want of a due execution."

A passage in one of the Duke of Newcastle's letters to the Lord Chancellor, which is dated June 22nd, exhibits his Grace's characteristic jealousy, which seems to have been as fully displayed in his transactions with his Sovereign, as it was in his dealings with his colleagues in office, but for which the uncertain disposition of the King probably often afforded much real ground.

" Yesterday H. M. did not honour me with one word at the levee, though he talked very merrily both with my right and left hand neighbours, Lord Granville and my brother, between whom I stood, and even spoke to my Lord Bath."*

The King, however, at this time notified to Lord Hardwicke and Mr. Pelham his great displeasure against the Duke of Newcastle, of whose impracticable temper he warmly complained.† The Duke addressed an expostulatory letter to His Majesty, in which he vindicated his conduct with considerable spirit and freedom. He says in

* Hardwicke MSS., Wimpole.

† Coxe's Pelham.

this letter, referring to the displeasure he had incurred,—

“I should have been totally ignorant of the cause of it, had not your Majesty been graciously pleased to mention it to my Lord Chancellor and my brother.” *

His Grace’s letter, together with the efforts of Mr. Pelham, had the desired effect of soothing the irritation in the royal mind, and the noble Duke was again received into favour, and enjoyed the sunshine of the court. In a letter which Lord Hardwicke wrote to the Duke on the 28th of July, he congratulates him on the change in the King’s conduct, which he observes, “I never doubted would come about in time.”

The following letter from Mr. John Yorke to his eldest brother, contains information on a matter of interest relating to the family, being Mr. Charles Yorke’s appointment to an important office, which was at this period conferred upon him.

“Yesterday our brother Charles was appointed Council to the E. I. Company, notwithstanding the strongest endeavours of Aⁿ Baker, to serve his friend Mr. Sayer, speaking, however, with great respect & good opinion of Charles. They divided 9 to 11. Mr. Waple & Mr. Drake have acted with great zeal & use on the occasion. Charles has been this morning to visit the directors, foes & friends. As a specimen of what is to follow, he is invited to meet them at Pontac’s to-morrow to dine upon a turtle. Gideon has shewn a great desire to promote my brother’s interest. This is the blessing of God upon a growing lawyer.” †

Mr. Charles Yorke wrote to Mr. P. Yorke on the 23rd of July. His letter contains several passages of

* Coxe’s Pelham.

† Hardwicke MSS., Wimpole.

interest relating to the intercourse of this highly gifted young man, with different persons of distinguished talents and acquirements, and anecdotes connected therewith. At this period the brothers were exerting themselves for their friend Mr. Warburton, who eventually attained so high a position in the church, both as a dignitary and a divine.

“The occasion of my writing to you is a visit I made the other day to the D. of N.* over his morning coffee; & after thanking him for the part he was pleased to take in endeavouring to set A. Baker right ab^t my appointm^t as Council to the E. I. Company, & talking to him on the subject of Warburton, he said that he had received a letter from you about a living. Then asked if I knew any thing of it, which I did not; & directed me to inquire how far the application was serious, or *par manière d’acquit*;—when I saw the letter, I told him that you had a great regard for the man, &c. ‘Well,’ says he, ‘I shall be glad to know how far he insists upon it; but, tell him that a Lord Chancellor’s son ought not to ask for crown livings;’ (in allusion, I suppose, to the converse of that rule, which I have heard my Lord inculcate, when the Duke applies to him;) ‘But, harkce, be sure you don’t make him angry with me.’ So if you have any thing further to say, I will convey it. . . . On Sunday I dined with Mr. Pitt, at his villa, upon Enfield Chace. He has made it extremely pretty, in the taste of the *ferme ornée*. This week he goes to Stowe, & perhaps may visit you; for something dropt ab^t it, expressing his inclination, but no fixed intention. Mr. & Mrs. Lyttelton & Bower were with him.

“Abbé Jefferies breakfasted with me this morning, &

* Duke of Newcastle.

went from my chambers to engage Birch to set out with him for Wrest, on Tuesday next. I did intend waiting on you myself next Saturday, but think it will be impossible, by reason of business on Monday morning, so at present I adjourn that project 'till Saturday se'nnight. My schemes for going abroad begin to mature, tho' I do not apprehend them to be so acceptable as I wish, at Powis H. The truth is, it varies the scene, is good for the animal, & rubs off the school-boy rust, which the rational faculties are too apt to contract by living always at home. . . . I have been two Thursdays *de suite* at the Mitre, in Wray's absence, to shew that I can do with^t him; for I think hitherto he has always taken me under his wing.

“ I waited on the *Archb^p* last Friday, & talked to him of Dyer. As soon as he is ready, the *Archb^p* will give him his dispensation; & for the examination, will deliver him over to Mr. Hall, (the librarian, the meekest man upon earth, & who will fear the poetic genius of Dyer, much more than Dyer can his Greek, as Birch will inform you, who laughed much when I told him of it.) Care is taken to instruct Mr. Hall not to ask hard questions, to shun the *scopuli* of all the learned languages, & in short, to confine the examinatioⁿ to a little Latin, & some common questions in parochial theology.” *

During the month of August, Lord Chancellor Hardwicke addressed a letter to Mr. Yorke from Wimpole, where this great judge was now enjoying the commencement of his vacation. The letter began thus:—

“ My Lady Grey & you are both very good in inquiring after the old folks, who are solitary here, like Adam & Eve, in a garden, whilst the wanderers have deserted

* Hardwicke MSS., Wimpole.

us. We desire you both to accept our thanks; but we are mortified that you don't talk of coming to us till the 22^d of Sept^r, which we think a great way off. However, that must be submitted to your convenience, & be assured that, whenever you come the pleasure will repay us for the pain of the delay.

. . . . "When I left the town there was no news in it. The state of the court was very well. His Majesty in very good health & very good humour." *

A letter was written to the Lord Chancellor, who was still at Wimpole, by the Duke of Newcastle, on the 6th of September, and which is headed "Very private." It contains the following account of His Majesty's demeanour towards the Duke at this period, together with some speculations on the causes of it.

"The King is very gracious, civil, & indeed familiar, both at the levee & in the closet. H. M^y talks very confidentially upon foreign affairs, but is totally silent upon every thing at home, & upon all employments that become vacant, upon which H. M. talks to nobody but Mr. Pelham, who sees him but once, or at most twice a week, but then he has long audiences. By this, & by Lady Yarmouth's manner towards my brother, & desire of frequent conversations with him, I have a strong notion that the King has formed to himself a sort of system, w^{ch} His M^y may think will answer all his ends, viz., that of carrying on in the main his business with his present administration, & yet gratifie the resentment of the Duke & the Princess Amelia against me. And the way of doing it is plain, to consult me, & follow my advice in foreign affairs, which the King must know is his own plan, & at the same time to exclude me *totally*

* Hardwicke MSS., Wimpole.

from any share in the home administration. This would certainly indulge the resentment of my enemies, and reduce me to make a most contemptible figure in the administration. The truth is, that in fact every thing passes thro' my brother's hands, & I am with regard to the King as much a stranger as if I was not in the ministry. The truth is also, that my brother accepts this at least, if he don't promote it or approve it. And his constant court to Princess Amelia lays the foundation for it, & gives the King reason to think that by this conduct his administration may go on in the present hands, & his children's unreasonable resentments agst me be gratified."

The Duke then proceeds to mention some particular circumstances connected with the King's conduct, which had led his Grace to entertain the views he expressed ; after which he continues :--

"I have *no friend* I rely on like yourself, & my enemies' behaviour towards your lordship shows how right I am in doing so."

He thus terminates a very long epistle, full of narrations of grievances and disappointments of every variety, with which he was at this time tormented.

"I must now conclude with what I have much at heart,—the making a visit to Wimpole. I want to see the place, to pay my respects to you & your family, & since visits are *characteristicks*, publicly to declare *mine*. My scheme is to wait upon you next Friday, (if you will give me leave), either to dinner or after Court, if I should be necessarily called there; to stay with you till Monday, & if you approve of it, to go myself to church & dine at Cambridge on Sunday, &

return after church to Wimpole. The only favour I ask is *no ceremony*, a warm room, & a bed that has been constantly laid in, & a little room for my servant. I know you will forgive these particularities.”*

By a passage in a letter written to his father during October, by Mr. Charles Yorke, who was at this time in Paris, we learn that the Duke of Newcastle’s intended visit to Wimpole took place as he had arranged, and that the noble duke in this instance appeared fully satisfied with his friends.

“ Lord Albemarle told me of the satisfaction w^{ch} the D. of Newcastle had in his visit ; that he had said the place was very fine, your lordship’s reception of him very friendly & polite, & my Lady Hardwicke a most excellent woman ; that, in short, he never heard him speak with more pleasure in his life than he did of his Cambridgeshire excursion. I understand from my brother that, besides some long conferences upon political matters, your lordship & your great visitant had one not quite so long upon our academical points. I dare say you found the Vice-Chancellor much disposed to put things in a reasonable way, which I sho^d be glad to see done, for the sake of peace & good learning.”†

The Paris intelligence contained in this letter is very scanty, being confined to the following note of interest respecting the President Montesquieu :—

“ Being just arrived at Paris, I have scarce turned myself round to see what friends & acquaintance I have here, & who are absent. Abbé Sallir is always in the library, but the President is still at Bourdeaux, and likely to stay there ; the vintage throughout France

* Hardwicke MSS., Wimpole.

† Ibid.

being extremely bad, it seems, his wife has allowed him to stay in the country this year, there being no danger of his having any wines to spoil by his experiments."

Mr. P. Yorke, in a letter to the Chancellor about this time, sends him some information relating to his future Sovereign.

"The Bishop of Norwich was with the King in his closet this morning, in relation to the improvements made by his royal pupils in their studies. He is disposed (as I find by Lord Anson) to speak favourably of their application, & of the progress they have made since they have been under his care."*

Mr. Yorke also mentions—

"I am just come from seeing Mr. Mossop, the new actor, in the part of Richard the Third, w^{ch} I think he performs wth judgment & spirit, & will make an excellent second to Garrick. . . . We dine at Hampstead to-morrow with Mr. Clarke, but I wish it has not the fate of most appointments, to turn out a bad day."

Lord Chancellor Hardwicke wrote as follows, in reply to his son's letter, from Wimpole, on the 6th of October. Miss Margaret Yorke, the Chancellor's youngest daughter, had this year been married to Mr. John Heathcote, eldest son of Sir Gilbert Heathcote, baronet.

"The house has been very melancholy since you left us, especially as your sister Heathcote served us the same trick yesterday, & reduced us to the little flock of your mo^r, myself, & Jem. The two last, in order to acquire some spirit, made a visit yesterday morning to

* Hardwicke MSS., Wimpole.

Serj^t Leeds & our sister, & found the ways thither had been scandalously traduced, for I got a very fine ride of twelve miles with much pleasure. . . .

“I begin to hope, from your account, that Mr. Mossop will gain so much credit as to give me a pretence for seeing a play about Christmas. If he is so good a second to Garrick, may not Garrick grow jealous of his second, for I have known that happen?”

“If this day has proved as good ab^t London as at Wimpole, you have had a fine jaunt to the top of Parnassus, & I hope have exhausted the councillor’s whole stock, before the flow of the seals comes in.”*

Lord Chancellor Hardwicke, after he became the proprietor of Wimpole, usually spent his long vacations there, and was in the habit also of paying it a visit whenever any intermission in his judicial or parliamentary duties permitted this. He appears greatly to have enjoyed himself in his rural occupations, and very extensive improvements were effected by him, both in the mansion itself, and the grounds adjacent.

Among the various persons who occasionally visited Lord Hardwicke at Wimpole, was a Mr. Saunderson Miller, a magistrate and country gentleman of Warwickshire, whose residence was at Radway, in that county. This gentleman was remarkable for his intellectual acquirements, and more especially for his taste in architecture and ornamental design. He was the friend of Sir George Lyttelton, of Mr. Pitt, and of Lord Barington, each of whom was in the habit of staying with him at his seat, Radway; and in the pleasure grounds adjoining the house, which now belongs to his descendant, Colonel Miller, is an urn which was put up in memory

* Hardwicke MSS., Wimpole.

of Mr. Pitt, afterwards Earl of Chatham; and some trees are also standing, which were planted there by Sir George Lyttelton, in whose letters to Lord Chancellor Hardwicke Mr. Miller's name occasionally occurs. Mr. Henry Fielding was also an intimate friend of Mr. Miller, and tradition records that, at the house of the latter, the manuscript of Fielding's celebrated work of fiction, *Tom Jones*, was read over before its publication; and that the description of Squire Alworthy, and of his country residence, was taken from Mr. Miller and his seat at Radway.

Mr. Miller's skill and taste, as an amateur architect, were very considerable; and he not only rebuilt his own mansion at Radway, which is an elegant stone edifice of the style belonging to the period of James the First, but from his designs were erected the Court-house at Warwick, where the assizes are held, and also Sir G. Lyttelton's mansion, at Hagley. A tower was constructed by Mr. Miller, on the summit of Edge Hill, about two miles from his own house, which served as a very picturesque object from it.

Lord Chancellor Hardwicke consulted Mr. Miller in the alteration of his own grounds, and a tower is standing on an eminence near the park at Wimpole, very similar to the one at Radway, which was also designed by Mr. Miller, as an object from the mansion at Wimpole. To the proposed erection of this, Lord Chancellor Hardwicke alluded in one of his letters to Mr. Miller, in the following amusing strain:—

“As the building of this castle requires no great haste, I think there will be no great harm if it remains in the air a few months longer.”*

* Miller MSS., Radway.

For some successive years, Mr. Miller appears to have been a regular guest at Wimpole, and to have been consulted on all the improvements there which were in progress. In another letter the Chancellor tells him,—

“The pleasure I have already felt by your good company at Wimpole, makes me rejoice extremely to hear of your kind intentions to favour me with it again. I hope then to be able to show you some improvements, and to profit by your good taste, for I am now actually putting in execution what you have heard me talk of, by opening the west side of the garden to the park hill. The walls are now actually pulling down, and the sunk fence digging.”*

Several other letters were written to the same effect; and in one, dated a few years after the above, in which Lord Hardwicke presses Mr. Miller to pay a visit to Wimpole very soon, he says:—

“I expect Mr. Yorke & Lady Grey here this week, who will be vastly glad of your company, as well as myself. . . . Besides, I want to show you my alterations; to have the advantage of your judgment upon them, & how to improve them.”†

Lord Chancellor Hardwicke returned to London early in October, and on the 12th of that month he wrote from thence to Mr. Yorke. His letter affords us some intelligence of importance respecting public events of this time:—

“*Powis House, October 12th, 1751.*‡

“DEAR MR. YORKE,—As this goes by Miss Talbot, I enclose a letter of anecdotes from Joe, w^{ch} came to my hands last Tuesday. Our master thanked me for showing

* Miller MSS., Radway.

† Ibid.

‡ Hardwicke MSS., Wimpole.

it him, & said it entertained him much, as I hope it will you & Lady Grey. You may return it by the hand, or keep it till you come to town, for, after Mr. Lyttelton's *contretemps*, I don't care to trust such curiosities to the post. His Majesty was very gracious, & very inquisitive ab^t the time of Joe's coming, tho' he himself took notice that he wou^d be a little delayed by being obliged to take his leave at Fontainebleau. I think he will certainly be here before the birthday, & I hope by the first day of the Term, the rather as Charles ought to be here by that time.

* * * * *

“Between two & three this afternoon, a servant of Mr. D'Ayrolle arrived from the Hague, with the melancholy news of the Prince of Orange's death, which happened, after a very short illness, called a fever, on Friday morning last.

* * * * *

“Mr. D'Ayrolle adds, that this event had raised a consternation amongst people of all ranks in Holland, not to be expressed or conceived.

“At my return from the drawing-room, I found this alarming news by a billet from my cousin Jones, & I am sure the King knew nothing of it when he went out of y^e drawing-room. The letters must have got to Kensington afterwards. God grant that it may not be followed with great confusion. It is not yet publicly known, so I have not spoke of it. Adieu.”

The following is from Dodington's Diary :—

“Oct. 29.—Lord Chancellor, Lord President, and I, went from the Cockpit to dine with the Lord Mayor; there were none of the Council except us three. Lord Granville and I went together.”

Parliament met on the 14th of November, and was opened by His Majesty in person. The speech from the

throne was settled by Lord Chancellor Hardwicke, several alterations being made by him in the original draught of it. The King, on this occasion, congratulated his people on “the continuance of the public tranquillity, and the flourishing condition” of the kingdom, and assured them that “the unfortunate event of the Prince of Orange’s death has made no alteration in y^e state of affairs in Holland.” This last passage is in the handwriting of Lord Hardwicke.

His Majesty also exhorted both houses to consider seriously of some effectual provisions to suppress those audacious crimes of robbery and violence, grown so frequent about the capital, proceeding in a great measure from that profligate spirit of irreligion, idleness, gaming, and extravagance, which had of late extended itself in an uncommon degree, to the dishonour of the nation, and the great offence and prejudice of the sober and industrious part of the people.

In December of this year, the Queen of Denmark died. She was a daughter of George the Second, who was much affected on this occasion, says Horace Walpole, and broke out into the following expressions:—“This has been a fatal year to my family! I lost my eldest son,—but I am glad of it; then the Prince of Orange died, and left every thing in confusion. Poor little Edward has been cut open (for an imposthume in his side), & now the Queen of Denmark is gone! I know I did not love my children when they were young; I hated to have them running into my room; but now I love them as well as most fathers.”

A measure relative to the management of the forfeited estates in the Highlands was introduced into the House of Commons on the 23rd of February, 1752, by the Lord Advocate of Scotland; and though strongly op-

posed there by some members, it was ultimately passed through that House by a large majority.

In the Lords', the resistance to the bill was more formidable; and on the second reading of it, it was vehemently attacked by the Duke of Bedford.

Lord Chancellor Hardwicke replied to the Duke of Bedford. He showed very fully, both on principle, and by reference to previous experience of cases of this nature, the absolute necessity for the measure.

The peculiar difficulties of that question he ably illustrated, both as regarded the particular circumstances of it, and the character of the people of Scotland with whom they had to deal. His own great knowledge of real property law, of the nature of trusts, of the frauds practised through these, and of the difficulty of dealing with intricacies of this kind, was of great service to him here.

The practicability of the plan before them he demonstrated very fully, and the mode of its operation. The great importance of cultivating a proper spirit and disposition among the people, without which laws could be of little use, and must always be subordinate to this, he here as on other occasions wisely advocated, citing various instances from our national history in support of his proposition.

The observations which follow, were made by him in the course of the above speech :—

“ My lords, from the several acts that have been passed, your lordships will see that ever since the last rebellion we have had two ends in view; one to prevent any future rebellion, and the other to improve the Highlands, and Islands of Scotland, by introducing and propagating manufacture, agriculture, and fisheries. Now it is certain, and even the noble duke himself seems to agree, that neither of these ends can be answered if the disaffected chiefs

should again get possession of their estates in that country ; for, as they have done before, they will think of nothing but cultivating a clannish spirit, and breeding their people up to arms, in order to raise a new rebellion against the government as soon as a favourable opportunity offers.

“ The noble duke, I find, my lords, is so sanguine as to hope that all these fraudulent claims may be detected ; but, from experience, I am induced to entertain no such hopes ; and the noble duke himself gave us a good reason for not entertaining any such. The people of that country are so faithful to one another in every case where they think their honour concerned, that no reward can tempt them, no terror can frighten them to betray their trust ; they will take any oath you can frame rather than discover what they think their honour obliges them to conceal ; and this fidelity reaches even to the very lowest of the people, as was apparent in the case of Porteous, mentioned by the noble duke. How then can we expect that trusts will be discovered where none but gentlemen are concerned ?” *

On a division the bill was carried by 80 against 12, and went through the subsequent stages without obstruction.

Parliament was prorogued about the usual time, by the King in person, with a speech, the composition of the Chancellor, which concludes in the following terms :—

“ MY LORDS & GENTLEMEN,—Nothing in this world gives me so much pleasure as to see you a flourishing & happy people. Exert yourselves in your several stations to do your parts, & you may depend on my unwearied endeavours to secure this great blessing to ourselves, & transmit it to posterity.” †

Soon after this His Majesty went to Hanover.

The Duke of Newcastle accompanied the King to Hanover. His Grace wrote to Lord Chancellor Hardwicke shortly after his departure from England, and we

* Hansard's Parl. Hist.

† Hardwicke MSS., Wimpole.

find a letter from him dated as follows:—"From on board the States Yacht, between Woerden, the place where the French were stopt in 1672, & Utrecht, April ^{14th,} _{23rd,} 1752."

"The first accounts which I shall send you from these parts, shall be what will be the most agreeable to you, the doing justice to my friend Mr. Yorke. I found every thing, & every person, at the Hague, answer the description he had given of them. . . . The Princess Royal was more gracious, & really more disposed to act agreeably to the King's views, & to the advice of our friends here, than I co^d have expected. Joe's opinion of her was fully verified. I saw nothing which I co^d wish otherwise, & two things I co^d observe which will both, (I had almost said equally,) please you. She seemed perfectly satisfied with your son, commended him extreamly, & said she never liked any body so well; & I am convinced his manner of acting towards her has brought her into the good disposition she is at present."*

The Chancellor went for a few days to Wimpole in the spring. He wrote from thence to his eldest son on the 20th of May, and told him of a visit that had lately been paid to him by a great personage.

"The Duke of Grafton came over hither from Cambridge on Monday last, ab^t ten o'clock in the morning. He staid all night, rid & walked about, & we had the pleasure to take a wet coat together. But that is nothing with my friend. His Grace was in excellent spirits & humour, & disposed to be pleased with every thing, at the same time dropping now & then his good advice. He has made an acquaintance with Lady Hard-

* Hardwicke MSS., Wimpole.

wicke, & I think will be free of the house. We drank your healths, & some in bumpers out of the bottom of his *Dettingen silver snuff-box*, the ugliest piece of plate that ever disgraced the pocket of a Gran Duca.”*

Conviviality, indeed, appears to have been the order of the day at this period, and in some cases it would seem that it was carried to a rather inconvenient extent by certain of His Majesty’s jovial councillors. Mr. Pelham, in a letter to the Lord Chancellor, written shortly after this time, says—

“I was in hopes to have had some conversation with your lordship last night, but the drunken state of our council, or at least of one of our councillors, made it impossible for me to say much.”†

Horace Walpole, in one of his letters written about this time, mentions a rumour that Lord Chancellor Hardwicke was about to have an earldom. He also tells his correspondent that Lord Brooke had been refused a key to Richmond Park by the Princess Amelia, the ranger, on the ground that she had already declined to give one to the Lord Chancellor. Walpole thus proceeds with his compound of scandal and scurrility:—

“By the way, you know that reverend head of the law is frequently shut up here with my Lady Monteith, who is as rich & as tipsy as Cacafigo in the comedy. What a jumble of avarice, lewdness, dignity—& claret.”

Lady Monteith lived at Twickenham Park, where Lord Hardwicke was an occasional visitor.

Lord Breadalbane wrote to the Lord Chancellor on the 24th of May, informing him of an affair that had happened in Scotland, of which Lord Hardwicke gives

* Hardwicke MSS., Wimpole.

† Ibid.

the following account in one of his letters to the Duke of Newcastle, dated May 29th :—

“ A very strong, tho’ fatal instance, has happened to prove the injustice of one charge, which I believe had contributed to hurt my friend* more than any other. I mean his recommendation of Campbell of Barcaldine, & Campbell of Glenmuir, to be factors upon two of the forfeited estates. The King will now see that the latter, who was y^e younger brother & the most objected to, was so obnoxious to y^e Jacobites, & had drawn so strong a resentment against him from that quarter, by the faithful & zealous discharge of his duty, that they have *assassinated* him. . . . None of y^e criminals have yet been discovered, but I hope the orders w^{ch} the lords justices have given for y^t purpose will be approved. The talk, or perhaps rather the conjecture, of the town is, that the fact was committed by one Cameron, a bastard of the Lochiel family, the chief of y^e tenants whom he had procured to be turned out, and it is not improbable. . . . It is necessary to look higher. It is an audacious & outrageous insult upon the government, & in all probability was meant with a general view to intimidate their officers from putting in execution the laws relating to y^e forfeited estates ; & they may have been made y^e more desperate by y^e new act of parliament, w^{ch} is a perpetual bar against those estates returning back into y^e same families.”†

A catastrophe of a serious nature occurred on the 27th of June, by which Lord Chancellor Hardwicke was nearly affected, the following description of which is in his own words, as related in a letter from him to the Duke of Newcastle :—

* Lord Breadalbane.

† Hardwicke MSS., Wimpole.

“I must now relate to your Grace an event which has given me infinitely more concern, & at the same time great cause of thankfulness to y^e Divine Providence.

“Your Grace has, I presume, been informed of the dreadful fire, w^{ch} happened in Lincoln’s Inn in y^e night between Friday & Saturday last. My son Charles’s chambers were on y^e first floor, & immediately over Mr. Wilbraham’s, in which the fire began, & had got to a great height before it was discovered. He went to bed at 12, & ab^t 20 minutes after one was waked accidentally by some noise, & that not great, in y^e square. His chambers were instantly filled with smoke, & he was forced to run down stairs, in danger of suffocation, with nothing on but his shirt & breeches, & a frock thrown over his shoulders, without shoes or stockings, & in y^t condition took shelter in his friend Mr. Clarke’s chambers on y^e other side of y^e square. In ten minutes after he got thither he had y^e mortification to see y^e floor of his own chambers, & every thing in them, fall in. His personal deliverance was the more providential, as it was by mere accident that the door of Mr. Wilbraham’s chambers was prevented from being opened before he came down. If that had been done, the staircase had been immediately in flames, & it had been absolutely impossible for any person y^t was above stairs to have escaped. He has lost every thing, & came home to me almost as naked as he came into y^e world. But what affects him most is y^e loss of his library of books, & all his manuscripts & papers, amongst which were my Lord Somers’s papers. I know your Grace’s good nature will make you sympathize with your faithful friends under such a calamity.”*

* Hardwicke MSS., Wimpole.

Mr. Warburton, alluding to this fire in a letter to Mr. Hurd, dated July 5th, 1752, says, "Our excellent friend Mr. Charles Yorke escaped narrowly with his life. This makes me think all the rest a trifle; tho' he has lost, (together with excellent chambers of his own), an excellent library, and, what is irreparable, all the state papers of his great uncle Lord Somers, in thirty or forty volumes in folio, full of very material things for the history of those times, which I speak upon my own knowledge."

The circumstance here referred to, which rendered this fire at once memorable, and a matter also of general importance, was the destruction by it of Lord Somers's papers, which had come into the possession of the Hardwicke family, and were at that time deposited in Mr. Yorke's chambers, as already mentioned. A few fragments only were spared by the flames, which Mr. Yorke collected, and after correcting the damaged passages with his own hand, he bound them in a folio volume. From this volume a selection was given in the "Miscellaneous State Papers," published by the second Earl of Hardwicke, in 1778. "The world," says Lord Hardwicke, "will do that justice to the collection, as not to suppose that these specimens from it, *minutæ ignis reliquæ*, will afford an adequate idea of its merits. It filled upwards of sixty volumes in quarto, and did not contain a paper from Lord Somers's pen which the most intimate friend would have wished to secrete, or the bitterest enemy could fairly have turned to his prejudice."

Lord Somers is one of those characters who reflect honour alike on the party which he served, the profession which he adorned, and the people from which he sprung. He was at once a patriot of the purest principles, and a

lawyer of the most comprehensive and cultivated mind. The most eloquent, and the most just sentiment ever uttered by Horace Walpole, who on this occasion travelled rather out of his department in awarding merited praise to a good man, was his eulogy on Lord Chancellor Somers, of whom he says, "He was one of those divine men, who, like a chapel in a palace, remain unprofaned, while all the rest is tyranny, corruption, and folly."*

Although Lord Somers held the great seal for seven years, yet his judicial life was unimportant as compared with the great political measures which he aided in carrying, so that in this respect it would be difficult to consider him in the same relation with Lord Hardwicke. His decisions as Chancellor were few, and not very remarkable. His celebrity as a constitutional lawyer rests mainly on his writings. He was essentially and in all respects a party man. Lord Hardwicke pronounced his decrees, and his opinions on different constitutional points, with the authority of the first judge of the land, and delivered them in his judicial rather than his political capacity. Lord Somers's arguments on constitutional subjects were, on the other hand, all delivered as the organ of a party.

The times in which Lord Somers lived were admirably suited for the development of his particular powers. Lord Hardwicke's mind was probably, to a large extent, influenced by Lord Somers, and his attention was still more directed to the study of those first principles of government, and of constitutional law, to which the papers of the latter mainly related.

The barony of Somers became extinct at his death, but was afterwards renewed by George the Third, in favour of his great nephew. And this, indeed, was a title

* Works.

worthy of being kept alive, and which confers honour on the peerage itself. The moral effects on a country of its own national history are ever most important, and there is nothing in a nation's career of so much influence on the popular mind as the memory of the great men who have adorned it, and the retaining which in perpetual remembrance before them is one of the most beneficial results of the establishment of hereditary honours. These exalted names are the grandest ornaments of which a kingdom can boast, the proudest trophies which adorn its annals. The want of these ennobling memorials might be appealed to, in some countries, to account in part for the deficiency in that high feeling and national self-respect which ought to animate the mind of their citizens. And among the finest races of antiquity the effect of their national history, and of the memory of the great men by which they were adorned, ever produced the most beneficial and elevating result on the popular feeling. In our own day, all that now remains of the glory of those mighty nations is the memory of the immortal names by which they were rendered famous. While their religion has become obsolete,—their grand temples have mouldered into ruin,—and their nationality has been utterly extinguished, yet the reputation of their great men and heroes still remains as bright and as influential as ever it was, imperishable like the elements which in all ages have existed the same and unchanged.

About thirty years after this fire in Lincoln's Inn, the manuscripts of another great lawyer and judge, Lord Mansfield, were destroyed by a conflagration, in the riots of 1780.

Numerous letters were addressed to Mr. Charles Yorke by his various friends, congratulating him on his escape, and condoling with him on the great loss he had sus-

tained. Among those who wrote to him was the talented and highly gifted Sir George, afterwards Lord Lyttelton, who sent the following note :—

*“ Wednesday, Treasury Chambers.**

“DEAR SIR,—I came to town from Tunbridge last night, & am to return thither this evening. It was my purpose to have seen you this morning, if I possibly could, to congratulate you upon your escape, & at the same time condole with you for the loss of your papers, a loss so grievous that it will require all your philosophy not to be very impatient under it, tho’ I believe you will feel it less for yourself than your friends will do for you ; but it has not been in my power to wait on you, & therefore I take this way to assure you that nobody can be more sensible to whatever affects you, than,

“ Dear Sir,

“ Your most affectionate & obliged

“ humble serv^t,

“ G. LYTTELTON.”

Lord Chief Baron Idle, Mr. Walpole, and Mr. Legge also wrote to him to the same effect. By an allusion in the Chief Baron’s letter, it would seem that some of Lord Chancellor Hardwicke’s papers, as well as those of Lord Chancellor Somers, were destroyed by the conflagration in question.

Lord Hardwicke, in his letter to the Duke of Newcastle, in which he describes the fire, and which is headed “ most private,” goes on to discuss an arrangement which was in progress, respecting an appointment about to be conferred on Mr. Charles Yorke, and thus expresses his own opinion of his highly-endowed son, and of the anticipated effect of the recent calamity on his mind :—

* Hardwicke MSS., Wimpole.

“As I had given my son Charles his whole portion, & made all y^e provision I intended for him, his present loss is a vast one to a young man. But that is not the whole, for tho’ I may be allowed to say that he has very good parts, & has improved y^m with great application, yet his spirits are not of y^e best & firmest kind, and therefore, besides repairing his loss, I want to do something that may keep up his spirits, & encourage him by some better permanent provision.” *

Dr. Birch, in a letter to Mr. P. Yorke, written during August of this year, relates the following short anecdote of the subject of this memoir :—

“My Lord Chancellor has anticipated you with regard to the second Earl of Clarendon’s diary of the revolution year ; for his lordship, immediately upon his coming to town this week, wrote to me to know whether I would allow him a sight of my copy, & how long he might keep it. My answer was, as long as his lordship pleased, since I was under no other restraint than that of not making it public ; which, upon my mentioning before him at dinner at Mount Ararat, my lord pleasantly cited the story of Dr. Radcliffe’s giving leave to S^r Godfrey Kneller to do any thing with his garden-door except painting it.” †

In this letter Dr. Birch mentions that “Bishop Berkley, who is arrived at Oxford, has been diverted for the present, from a resolution which he had seriously formed of resigning his Bishopric, & persuaded to try a little how he likes his residence in that university.” He also states the following :—

“Mr. Barwell, one of the clerks of the House of

* Hardwicke MSS., Wimpole.

† Ibid.

Commons, is transcribing for your brother some of the fragments of Lord Somers's papers."

Mr. Hutton Perkins, who writes to Lord Chancellor Hardwicke from Bath, on the 17th of September, relates the following:—

"Her Royal Highness the Princess did me the honour to speak to me in the Pump-room since I came, to enquire after yo^r lordship's health. She hoped you were well, & asked whether you were gone to Wimple. She comes every morning to the Pump-room between 7 & 8 for her first glass of the smallest size, & about a quarter after 8 for a second glass, which is all she drinks in publick. She has no doctor with her, nor makes use of any here. Ranby is the only person that directs her. By what I can learn, her deafness is much as it was. It is not fixt; some days she hears tolerably, & others not so. . . . She is very affable & civil, comes to the room at noon lately, & sometimes at nights, & plays at cards there, chiefly at commerce. She takes all opportunities when fair of getting on horseback, & amuses herself almost every day some hours in angling in the river, in a summer house by the river side in the garden, formerly known by the name of Harrison's walks, which has two fire-places in it, & to secure her against cold, puts on a riding habit, & a black velvet postillion cap, tied under her chin. His Royal Highness the Duke is expected here to-night or to-morrow to make his sister a visit.

"Lord Ch. Justice Lee arrived here last night, & is very well after his journey. He desired me to make his compliments to your lordship. He has nobody with him but servants." *

* Hardwicke MSS., Wimpole.

Archbishop Herring in a letter to the Lord Chancellor, written on the 14th of September, 1752, complained much of the manner in which the education of the young Princes was being conducted, and especially of the interference of certain persons.

. . . “Indeed, my dear lord, as to the sentiments of the old Whigs, of great account in the kingdom, I know it goes to the heart of them, that the education of the young Princes should be at all trusted to men who were brought up in the school of Bolingbroke, for that is certainly the case with Scot & Cresset; & I have some reason to say that one of that bad man’s principles is already stirring in the R. Family, viz. That a King of Engl. is a King of his people, not of Whigs & Tories. This is a noble principle, it must be owned, & I would to God it took effect truly, but what must be the consequence when it is only made the vehicle of Jacobitism, & tends to overturn a governm^t w^{ch} began, & can only be supported upon Whig principles?” *

In another letter from the Archbishop to the Chancellor, dated October 5th, his Grace says,—

“I p^d a visit on Saturday at Fulham, where I found the B^p † in high spirits, but extremely feeble.”

The Archbishop mentioned to the Bishop of London the matter respecting the young Princes’ education, about which, says the Archbishop:—

“Y^r l^p is satisfied, I am sure, that I kept the door of my lips, & let nothing go forth that could commit me. The B^p was not so cautious, but launched out into reflections the same, or as strong as those I related at Wimple;

* Hardwicke MSS., Wimpole.

† Dr. Sherlock.

spoke of the business as extremely perilous, & shrugged up his shoulders at the apprehension of consequences & connections. When the governor p^d his duty to the Princess the other day, she ask'd him, as he made a motion to go, whether he was going to Mr. Stone. No, mad., I am going to my good friend the B^p of N. * Mr. Stone is too much a man of business to admit of ceremonial visits." †

The following is a postscript to the above letter :—

"Mem., Oct 8, 1752.

"Being in conversation with the Præceptor in my long gallery, & descanting upon the untoward situation of things in the P. of W. his family, & y^e consequences w^{ch} might attend the publick knowledge of it, I took occasion to ask the Præc. what he thought would be the true method of setting every thing again upon a right footing. His answer was, 'That justice might be done him as Præceptor, & as a private man. That he might be assured of being in the same degree of the Royal favour, as he had reason to hope that he enjoyed, when he first entered upon his important office. That Mr. Scot might be removed, as being unfit for his office, & that he (the Præc.) might be consulted in the appointment of a sub-præceptor in Mr. Scot's room. That Mr. C——t should make the governor & him amends for his calumny upon their characters in a satisfactory manner, due consideration being had to the regard wth w^{ch} the Ps^s of Wales was pleased to honour him, & to the great post he holds under his Royal Highness, the Prince, intimating that a proper acknowledgment before the D. of N. would be deemed sufficient.' "

* Norwich.

† Hardwicke MSS., Wimpole.

The Lord Chancellor wrote to the Duke of Newcastle in October, on the subject of the King's return to England, and the meeting of parliament, and expressed himself on these topics to the following effect :—

“I congratulate your Grace upon having brought His Majesty to a declaration of the time of his leaving Hanover, though it is a late one, and may be the very worst for the dark nights, in case he keeps up to that time. However, I am very glad that something is settled, and the yachts ordered, which will read well in the papers. I need not mention the real pleasure it gives me, in the prospect of seeing your Grace after so long an absence. As to the parliament meeting before Christmas, the King's indifference about it shows that he has no thoughts of another journey next year, for if he had he would be very pressing. For my own part, I think it dangerous, and impossible to be ventured upon ; both on account of accidents that may *delay* His Majesty's journey, and the undecided state of public affairs. The 8th or 9th November are the days named for his departure ; he commonly takes a few days more. . . . If the parliament should be summoned to meet before Christmas, and then put off until after Christmas, and the members come to town, what an ill-humour will it create, and what a flame upon the inconvenience and unpopularity of the King's long stay ! In such circumstances, I should not wonder to see a paragraph moved, to be added on that subject to your address, on the first day of the session ; and all this when you do not know what may be the event of the principal point of public business depending ; and your Grace says, at the end of your letter, *that you see France will still do all they can to delay it !* The consequence of this is, that you do not yet know either the plan of your session or your speech.

“I have written to Mr. Pelham, at large, upon these topics ; but, at the same time, have made him the depositary of my conscience on this point. I have told him my thoughts, but have, at the same time, told him that I do entirely acquiesce in his determination, and that whatever shall be his opinion upon it I will avow and declare to have been mine.

“As my first seal is on the 23rd, I shall be settled in town before your Grace leaves Hanover, and ready to receive your commands, and to embrace you with joy when you arrive. God grant His Majesty a prosperous journey, and the like to your Grace and my Lady Duchess.”*

* Coxe's Pelham.

The Duke of Newcastle replied to Lord Hardwicke on the 3rd of November, “from on board the yacht betⁿ Utrecht & y^e Hague.” In this letter he gave a very agreeable description of the behaviour of the King towards him.

“I never saw such an alteration in y^e face of the court, as there was for the three or four last days. The King was all grace & goodness, talked particularly of his return to England, with all the satisfaction imaginable, & made me the kindest speech upon my kissing his hand, or a little before, of my zeal & affection to him & his service. In short we ended so differently from what we began, or had carried on, that I should not have thought that I had been in y^e same company.”*

The King and the Duke of Newcastle were now expected shortly to return to England.

A visit was paid by the Chancellor and one of his sons to the dinner at the Guildhall, on Lord Mayor's day of this year, of which we have an account in the following letter, which was written by Mr. John to Mr. P. Yorke on the 10th of November.

. . . “The Duke of Newcastle is expected whenever the tide serves to bring him out of Calais harbour. His Grace writes word that things went so smooth for the three last days of his residence at H——r, so many kind & civil things were said, that the place he was in, & the persons with whom he conversed, appeared quite changed. . . .

“Lady Anson tells me she has wrote word to Lady Grey of papa's having carried me to the Lord Mayor's entertainment at Guild-hall, with proper observations for

* Hardwicke MSS., Wimpole.

your reading. Merely to have dined there would have been the common lot of every 'prentice in the city, but to open the ball at night with y^e Lady Mayoress was an honor that befell me only. Before papa took his leave of the company, Lord Mayor desired to speak with him in private, & when they were together made him many fine speeches on the part of the city, for the honor of his presence upon that & so many former occasions, & how kindly they received that mark of his attention. His Lordship then desired to know whether he might have any hopes that his M——y would pass thro' the City on his return, that if it was intended, he would upon notice being given, cause the Mansion House to be illuminated that evening; would invite the Court of Aldermen to supper, & as his M——y passed by, they would come out & drink his health. This you may be sure was not discouraged. Papa promised to acquaint the Secretary of State, which he did as soon as he got home. . . . The Speaker was present at this crowded feast, & told papa a piece of news in whisper, which mamma I find has communicated to Lady Grey by this next post. If one may judge of the truth of a report from the external behaviour of one of the parties, I sho^d think there was some truth in it, for I never remember the chief of the justices so debonair & cheerful as he is just now." *

A letter from Mr. Pelham to the Duke of Newcastle, written on the 18th of November, contains an account of His Majesty's arrival in London, "in perfect health & good humour." Mr. Pelham adds, "He looked satisfied, neither made a joke, nor shewed the least displeasure at the Duke not being come to London."

* Hardwicke MSS., Wimpole.

. “The Princess of Wales was at St. James’s and with her children met the King at the bottom of the stairs. I am told every thing appeared well there. The children came into the King’s room where we all were, but not the duke. The King seemed well pleased with them, but I fear the divisions in that court will give us more uneasiness than any other public event.” *

Parliament was opened by His Majesty on the 11th of January, 1753. The speech from the throne was prepared by the Chancellor. It alluded, with satisfaction, to the continuance of the peace, and expressed a hope that the laws made the last session for suppressing crimes and disorders had proved effectual; and that whatever was further necessary to perfect so good a work might be adopted.

The draughts of the motion for an address, and of the address itself, in the House of Lords, are entirely in the handwriting of Lord Chancellor Hardwicke. The address of the House of Commons in answer to the speech from the throne, was moved by Mr. Charles Yorke.

The following letter was written to Lord Chancellor Hardwicke by Bishop Sherlock, who at this time filled the see of London, and also held the Mastership of the Temple.

“*Fulham, 9^e 12th Jan^y, 1753.*†

“MY LORD,—The first time I saw the Duke of Newcastle, since his return from Hanover, which was on Friday last, I acquainted him with my intention to resign the Mastership of the Temple, & desired him to recommend Dr. Nicolls to His Majesty to succeed me. Permit me, my lord, to beg the same favour of your lordship in his behalf. He is one of His Majesty’s chaplains, & has been for some years past my assistant preacher at

* Coxe’s Pelham.

† Hardwicke MSS., Wimpole.

the Temple, & has given great satisfaction to the societys. Your kindness to him on this occasion will add to the many obligations I have to your lordship, & I am, my lord, your most ob^t & most h^{ble} serv^t,

“ THO. LONDON.”

An anecdote has been related of Lord Chancellor Hardwicke, which serves to evince, at once, his discriminating taste, the extraordinary power of his memory, and the attention which he bestowed on his religious, as well as secular duties.

During the course of the year 1753, Dr. Nicolls, mentioned in the above letter, called on the Chancellor for the purpose of presenting to his lordship the newly published sermons of Bishop Sherlock, most of which had been preached at the Temple Church, where Lord Hardwicke was in the habit of attending divine service while a benchman of that society. The Chancellor asked Dr. Nicolls if there was not a sermon on the 20th John, v. 30, 31, among the collection, and on being told that there was, the Lord Chancellor desired him to turn to the conclusion, and at once repeated the eloquent passage with which the sermon ends, contrasting the Christian with the Mahomedan religion, and commencing with the words, “Go to your natural religion, &c.,” and which passage Lord Hardwicke had retained in his memory from having heard the sermon preached 30 years before.*

Lord Chancellor Hardwicke wrote to Bishop Sherlock to thank him for the present in question, and his letter apparently refers to the circumstances above narrated.

“I beg your lordship will, in this method, accept my sincere thanks for the very acceptable present of your

* Nicholl's Anecdotes.

new volume of discourses. Every thing that comes from your lordship is highly valued by me; & in this I take the greater pleasure, as I find it will revive my remembrance of some old acquaintance, from whom I received much delight & instruction in my earlier time, & which Dr. Nicolls can inform you I have not quite forgot. I pray God to grant your lordship health, & to prolong your life, to give y^e world such another benefaction.”*

In Bishop Sherlock’s farewell to the treasurer and benchers of the Temple, he declared that he “esteemed his relation to the two societies of the Temple to have been the greatest happiness of his life, as it introduced him to some of the greatest men of the age, and afforded him the opportunities of living and conversing with gentlemen of a liberal education, and of great learning and experience.”

Dr. Blair, in his Lectures on Rhetoric, points out the very passage which Lord Hardwicke so much admired, as an instance of personification carried as far as prose even in its highest elevation will admit. After transcribing it, this elegant critic remarks, “this is more than elegant, it is truly sublime.”

Another letter from a very distinguished clergyman of the Church of England, whose name has already been mentioned, was also at this time addressed to the Lord Chancellor, who had recently bestowed upon him a prebend of Gloucester.

“MY LORD,†—I beg I may be permitted to make your lordship my warmest acknowledgments for your goodness in mentioning me, so much to my advantage, to the Duke of Newcastle. I have, and it could hardly

* Hardwicke MSS., Wimpole.

† Ibid.

be otherwise, found the benefit of it, the particulars of which Mr. Yorke will acquaint your lordship with.

“ I beg to be numbered amongst your most obliged servants ; & that I may be permitted to say that no one has a higher sense of the obligations of gratitude than,

“ My lord,

“ Your lordship’s most ob^t & devoted serv^t,

“ W. WARBURTON.

“ *March 19, 1753.*”

Mr. Warburton wrote shortly after this to his friend Mr., afterwards Bishop Hurd, and gave him the following account of Lord Hardwicke’s bestowal upon him of the preferment in question :—

“ I should be sorry that a newspaper should tell you, before I could do it, of Lord Chancellor’s favour to me ; which receives its value from the very polite manner of doing it. Last Sunday he sent me a message, with the offer of a prebend of Gloucester, as a mark of his regard, and wishes that it had been better. I desired Mr. Charles Yorke to tell him, that no favours from such a hand could be unacceptable. He said he had always had it in his intention ; though he said no more of his design, than I did of any expectation or desire. I said I should be sorry that a friend who interests himself so much as you do in what concerns me, should hear of the Chancellor’s kindness to me first from a newspaper. But enough of this : which is only considerable from the very obliging manner of conferring the favour, though I believe it is the best prebend he has to give.”*

An event occurred at this time which produced considerable sensation in the nation, and was the occasion of some acrimonious discussions in Parliament. Lord Hardwicke, as will be seen, was in different capacities called upon to take part in the transactions which grew out of it.

It appears † that a Mr. Fawcett, the Recorder of New-

* Letters of Warburton and Hurd.

† Hardwicke MSS., Wimpole ; Dodington’s Diary ; Horace Walpole’s Memoirs ; Coxe’s Pelham.

castle, made an assertion that Mr. Murray, the Solicitor-General, together with Mr. Stone, the late secretary to the Duke of Newcastle, and sub-governor to the Prince of Wales, had formerly been in the habit of drinking the Pretender's health, at the table of a Mr. Vernon, a noted Jacobite, in the city. An inquiry into this matter was instituted before a cabinet council, in which the Chancellor took an active part. The business terminated by the council declaring the acquittal of the persons accused, and that the charge was scandalous and malicious, in which opinion they were unanimous. Horace Walpole, however, asserts that Lord Hardwicke, in his communication of the transaction to the Duke of Bedford, "seemed to own Mr. Murray guilty;" and goes on to insinuate, in the same vague style, that the Chancellor's jealousy of Murray was the cause of this. Vernon, it appears, had left the whole of his property to Mr. Murray.

On the 22nd of March the Duke of Bedford brought the subject before the House of Lords, which was much crowded on the occasion. He contended that the public mind was not satisfied with the secret inquiry, considering the important stations of the persons accused, and that that House was the proper tribunal for cases of that nature. Some remarks being made by him respecting certain communications between Fawcett and Lord Ravensworth, Lord Chancellor Hardwicke interfered, by declaring that it was unparliamentary and informal to repeat a hearsay account of what had passed elsewhere. This caused the Duke of Bedford to renew his attack on those peers by whom this inquiry had been promoted, and he asserted that it had been conducted, not before the council, but before a private meeting of certain lords. He denounced this tribunal as unconstitutional, secret,

arbitrary, and cruel. Illegal powers, he said, had been resorted to. The report itself, he contended, ought to be made public. He then moved that the examinations, report, and papers relating to this affair, should be laid before the house.

As it was necessary that a matter of this important nature should be satisfactorily explained, the King dispensed with the oath of the lords of the council; and permitted Lord Hardwicke and the Duke of Newcastle to acquaint the house with the whole proceeding.

Lord Chancellor Hardwicke answered the vehement appeal of the Duke of Bedford with great calmness and moderation. After adverting to the solemn avowal which Mr. Stone had offered of his innocence, by oath, he justified the legality of the cabinet council, and vindicated its proceedings. He affirmed that the cabinet council was a body whose existence was on record in the journals of Parliament. He then declared that the oaths had not been imposed by authority, but administered at the desire of the accused themselves, as a matter of grace; and that the inquiry had been instituted for satisfaction, not for prosecution. He exposed the inconsistencies and contradictions of Fawcett; applauded the zeal and good conduct of Mr. Stone during the rebellion; and spoke in warm terms of the meritorious and irreproachable behaviour of Mr. Murray, since his first appearance in the Court of Chancery, in 1742.

Lord Hardwicke afterwards emphatically asked, "Will you wantonly invade the prerogative? Have you any distrust of the lords who have sifted the matter? And to what good purpose will further inquiry tend, without condescending to scrutinise the truth or falsehood of charges so vague and obsolete." He concluded with a moving appeal to the judgment of the house: "I reflect

with pleasure on the many converts that have been made from Jacobitism ; and hope that you will not, by inquiry into old stories, prevent and discourage a change of principle. Do not deter, by the alarm of a parliamentary inquiry, those who are willing to re-enter the pale of loyalty ; they would never deem themselves safe ; and it would be ungenerous and cruel to exclude men of any principles from enjoying the sunshine and blessings of such a reign and government. For myself, I hate party names and distinctions ; and, for the purpose of stifling any attempt to revive them, will give my entire negative to the motion.”*

The framing of the act for the prevention of clandestine marriages was one of the greatest legislative measures of Lord Hardwicke, and at this period occupied the attention of Parliament. For a long time past the Chancellor had been conscious of the necessity of a remedy of this nature, and several times in the course of his judgments on cases arising out of clandestine marriages adverted to the unsatisfactory state of the existing law. Some of these cases have already been cited among the selections from his judgments given in this work. There were also several appeals to the House of Lords relating to the validity of these marriages ; and in certain instances the innocent offspring were cut off from the succession, though their parents had been *bonâ fide* married, because such marriages had not been celebrated in a regular manner. The Earl of Bath, while attending a Scotch cause, had been struck with the hardship of a matrimonial case, in which a man, after a marriage of thirty years, was claimed by another woman on a precontract. Both men and women of the most infamous characters had opportunities of ruining the sons and daughters of

* Cox's Pelham.

the greatest families in England, through the facilities of marrying in the Fleet and other unlicensed places ; and marrying was now become as much a trade as any mechanical profession. A clergyman named Keith was said to have obtained the income of a bishoprick, in Mayfair, by his practices in this way. Some recent instances of these evils coming before the House of Peers, it was recommended to the judges to prepare and bring in a bill, which they accordingly did.

On the draft of this bill being laid before Lord Hardwicke, he considered it unsatisfactory, and determined on framing one himself, which was subsequently submitted to Parliament. His lordship, from his experience in Chancery in cases of this nature, and from having had his attention long called to the subject, was particularly fitted for such a task, and accordingly his performance was a masterpiece in its way, at once comprehensive and practical. In compiling and introducing this great measure, which is one of the most extensive and general importance of any ever submitted to the legislature, his qualities, both as a lawyer and a statesman, were fully exercised, and of great use in fitting him for the undertaking. Amidst all the changes of laws which have since occurred, this has been found to be based on so sure a principle that the remedy has proved entirely effective ; and Lord Hardwicke's bill, as regards the grand outline of its plan, remains to this day the law which regulates that important subject ;—the strongest panegyric on its merit and value that could be pronounced.

The bill was first introduced into the House of Lords ; and though strongly attacked by the Duke of Bedford, it passed that house by a considerable majority. It is much to be regretted that no verbatim account of the debate on that occasion has been preserved.

Great opposition was, however, manifested against the measure in the House of Commons. Mr. Pelham warmly supported the bill upon principles of private conviction; others, perhaps, upon the same principle, as warmly opposed it, as being calculated to engross all the property in the kingdom amongst the great and rich families. The Attorney and Solicitor-General had been at much pains to study the matter, and were zealous advocates for the bill, as was Lord Barrington, with several other members of great weight and consideration. Mr. Fox, who was then secretary at war, was as strenuous an enemy to the measure, and attacked Lord Hardwicke with some vehemence. Mr. Charles Yorke vindicated the character of his father with equal spirit and ability; and concluded by a threat, which Mr. Fox repelled with aggravated sarcasm and indignation. On a subsequent occasion Mr. Fox apologised for his attacks on Lord Hardwicke, and disavowed any personal feelings against the Chancellor.

Mr. Nugent spoke with considerable warmth and with great ability against the bill, as did Mr. Townshend, who also attacked the Chancellor.

The bill, however, passed by a majority of 125 against 56, and, being sent to the House of Lords, the amendments made in it by the Commons were after some debate agreed to, and it received the royal assent.

The following lively and amusing letter from Mr. Horace Walpole to Mr. Seymour Conway, gives an account of the progress of the measure through the House of Commons :—

*“ Strawberry Hill, May 24th, 1753.**

“It is well you are married. How would my Lady A—— have liked to be asked in a parish church for three Sundays running? I

* Walpole's Letters.

really believe she would have worn her weeds for ever, rather than have passed through so impudent a ceremony! What do you think? But you will want to know the interpretation of this preamble; why there is a new bill, which, under the notion of clandestine marriages, has made such a general rummage and reform in the office of matrimony, that every Strephon and Chloe, every Dowager and her II——, will have as many impediments and formalities to undergo as a treaty of peace. Lord Bath invented this bill, but had drawn it so ill that the Chancellor was forced to draw a new one—and then grew so fond of his own creature, that he has crammed it down the throats of both houses—though they gave many a gulp before they could swallow it. The Duke of Bedford attacked it first, with great spirit and mastery, but had little support, though the Duke of Newcastle did not vote. The lawyers were all ordered to nurse it through our house; but except the poor Attorney-General, who is nurse indeed to all intents and purposes, and did amply gossip over it, not one of them said a word. Nugent shone extremely in opposition to the bill, and though every now and then on the precipice of absurdity, kept clear of it with great humour, and wit, and argument, and was unanswered—yet we are beat. Last Monday it came into the committee; Chas. Townshend acted a very good speech, with great cleverness, and drew a picture of his own story, and his father's tyranny, with at least as much parts as modesty. Mr. Fox mumbled the Chancellor and his lawyers, and pinned the plan of the bill upon a pamphlet he had found of Dr. Gally's, where the doctor recommending the French scheme of matrimony, says: It was found that fathers were 'too apt to forgive.' The Gospel, I thought, said Mr. Fox, 'enjoined forgiveness; but pious Dr. Gally thinks fathers are too apt to forgive.' Mr. Pelham, extremely in his opinion against the bill, and in his inclination too, was forced to support it, and without speaking one word for it, taught the house how to vote for it; and it was carried against the chairman's leaving the chair, by 165 to 84."

Walpole writes again soon after this as follows:—

*"Arlington St., May 29th, 1753.**

"I am come to town for a day or two, and find that the marriage bill has not only lasted till now in the committee, but has produced, or at least disclosed extreme heats. Mr. Fox and Pelham have had very high words on every clause, and the former has renewed his attacks on the Chancellor under the name of Dr. Gally. Yesterday, on the nullity

* Walpole's Letters.

clause, they sat till half an hour after three in the morning, having just then had a division on adjournment, which was rejected by the ministry by above 80 to 70. The speaker, who had spoken well against the clause, was so misrepresented by the Attorney-General, that there was danger of a skirmishing between the great Wig and the Coif, the former having given a flat lye to the latter. Mr. Fox (I am told) outdid himself for spirit and severity on the Chancellor, and the lawyers. I say I am told, for I was content with having been beat twice, and did not attend. The heats between the two ministers were far from cooling by the length of the debate. Adieu! you did little expect in these times, and at this season to have heard such a parliamentary history! The bill is not near finished; Mr. Fox has declared he will dispute every inch of the ground."

The next letter, which is from Dr. Birch to Mr. P. Yorke, gives us an account of the treatment of the measure in the House of Lords, on its being sent there after it had been amended by the Commons; and affords some interesting particulars of the performance of Lord Hardwicke on this occasion, the only report of his speech extant:—

*" London, June 9th, 1753.**

"DEAR SIR,—My own inclination concurred with your desire in determining me to attend the issue of the Clandestine Marriage Bill, in the House of Lords, on Wednesday, after I had devoted so many days and nights to the progress of it in the Commons. When the clerk had twice read the amendments, his Grace of Bedford declared, with some vehemence, that as he had all along opposed the bill before it was sent down to the other house, he should now use the right which he had to object to it in its present state, altered as it was throughout, and made almost an entire new one. He then began to remark at large upon those amendments in a continued speech, as dissenting from most of them, till he was reminded by my Lord Chancellor that the regular course was to state his objections to each particular alteration during the third reading of them. This shortened the train of the Duke's eloquence; and when he opposed the first amendment, Lord Sandys spoke for it, protesting that, as he had long wished for such a bill, he should himself, and hoped the house would, agree to all the alterations rather than hazard it. The last amendment, that the bill should not

* Hardwicke MSS., Wimpole.; Hans. Parl. Hist.

extend to marriages to be performed abroad, was opposed by his Grace, because he alleged it would endanger the execution of the whole bill, since it would be easy for people to pass over to Calais, Boulogne, &c. He added that he was sorry to see himself so ill supported, and that a bill of that importance should have been crammed down and forced through the parliament.

“These expressions called up Lord Bath, who justified both the design of the bill and the manner of carrying it on, claiming to himself the honour of having moved for it, and urging the necessity of doing what all other nations had done, and what Ireland had found no ill effects from, but many good ones, and only complained of the want of such a law in England, whither their people resorted to evade that of their country. His lordship took notice of the manner of the opposition to the bill, in which he said the merits of it had the least share.

“My Lord Chancellor then rose, and began a most spirited speech of near three quarters of an hour, with declaring his concurrence to all the amendments, though some of them evidently weakened the bill as sent down from that house, since the substance of it was of so much moment to the nation, and these defects might be supplied by a subsequent one. He hoped their lordships would act as their predecessors had done in the case of the Act of Succession under King William, (if he might compare great things with small,) when the Commons, who were generally thought ill affected to it, clogged it with many impracticable limitations, in order to prevent their lordships from passing it, who, on the other hand, wisely consented to the whole, for the sake of securing the succession itself, resolving to wait for some future opportunity to retrench the exceptionable clauses connected with it. He then expressed his surprise at the Duke of Bedford's complaint of the bill having been crammed down and forced through the two houses, which had been brought into that of their lordships towards the end of January, and lain five weeks before the Commons. And he could not avoid declaring his astonishment that a bill so long called for, and so often attempted, and now at last introduced, not by a single lord, but the whole house, prepared by the judges, improved by the almost joint sense of their lordships, authorised by the concurrence of the Reverend Bench, and drawn up with a retrospect to past offences, should have been styled out of doors an absurd, a cruel, a scandalous, and a wicked one. It would not, indeed, have been surprising that young men in the warmth of their constitution should be averse to any regulations which seemed to interfere with their passions and sanguine pursuits; but it was very extraordinary to see grave and solemn persons, turn a law so

necessary for the public good, into an engine of dark intrigue and faction, and into an occasion of forming a party, and trying its strength. But their opposition had been attended with an event which they little intended, and had raised a zeal in favour of the bill which had secured its success. His lordship then animadverted upon the profligacy of the principles avowed by these enemies of it, and the unbounded contempt and reproach thrown out upon the whole system of our law, and its professors, and the several courts of justice. But with regard to his own share in this torrent of abuse, as he was obliged to those who had so honourably defended him, ‘so’ said he, ‘I despise the invective, and I despise the retraction; I despise the scurrility, (for scurrility I must call it,) and I reject the adulation.’* But these candidates for power give a sufficient warning to the public what may be expected from them; for, as there are but two schemes of government, law and force, and they have declared their contempt of the former, they show what they are likely to have recourse to; and, indeed, this open contempt of the law is but one step short of a design to overthrow our constitution, by abolishing the law, which would in fact deserve it, if it were, as they had described it, a heap of inconsistency, confusion, perplexity and absurdity. There were some other persons, who profess, and undoubtedly have a reverence for the law and religion of their country, who yet, through a mistaken notion of that religion, or adopting that mistake from some particular view, had opposed the bill upon the supposed indissolubility of marriage; and yet these had fallen into an inconsistency, usual in error, by extending the prohibition which prevented these contracts, which they represented as sacred, from being carried into execution afterwards by law. At the conclusion of his lordship’s speech, and after one of the Bishop of Oxford, the amendments were immediately agreed to without a division.

“Mr. Fox was not present, but had soon an account of what passed; for the same evening, being at Vauxhall with some ladies, he broke from them, and collecting a little circle of young members of parliament, and others, told them, with great eagerness, that he wished the session had

* According to some other contemporary accounts of this debate, Lord Chancellor Hardwicke on this occasion read his speech from a paper, which he held in his hand. Whether this was done to show the deliberation with which he uttered his sentiments, or that he might be sure of the exact words he made use of, does not appear. He is also said to have designated Fox as “a dark, gloomy, and insidious genius; an engine of personality and faction.” One authority states that he denominated him “that black, bad man.”—*Vide Cooksey; Hans. Parl. Hist.*

continued a fortnight longer, for then he would have made ample returns to the Lord Chancellor's speech. I did not hear that of the Speaker to His Majesty, on Thursday, but I am assured that it was an attack upon the justice of the marriage bill, and the authority of parents, who, he affirmed, had never occasion to complain of the disobedience and ill-conduct of their children, if they afforded them a good example, and a good education.

"The Speaker talks of my Lord Chancellor's speech in the style of Mr. Fox, as deserving the notice of the Commons, if they had not been prorogued."

The Peers assented to the bill, and on the following day it received the royal assent.

The letter which follows, from the Duke of Newcastle to the Lord Chancellor, evidently relates to Lord Hardwicke's speech upon this occasion. The date indorsed by Lord Hardwicke upon it is, "Kensington, Friday, June 8th, 1753."

"Kensington, Friday, 3 o'clock.*

"MY DEAREST LORD,—It is with as much surprize as satisfaction, that I can acquaint you that, finding Lord Holdernesse in y^e closet, His Majesty began with a great good smile upon me. Lord H. has just told me the particulars of L^d Chanc^{rs} speech, which he approved most highly. He seemed particularly pleased with some *touching expressions*, & said afterwards a most right & most just thing. I explained your ld^{ps} reasons, particularly with regard to the insult upon law, & the observation you made upon His M. as head of the law, & constitution; the King said, that was very right, for at Hanover, where the government is *military*, as it is here *legal*, whoever struck a *centinel*, struck him, the King. This was strong indeed. I told the King, & L^d Hol. confirmed it, that all which y^r lord^p had said upon the laws was upon that principle. This remark, or rather

* Hardwicke MSS., Wimpole.

application of His Majesty's, showed how well he approved & understood the whole. The King said his family came to preserve the laws, & were therefore to maintain them, implying mutual interest and obligation. I told y^r l^p what effect your speech would have. . . .
 I have some knowledge of *things* & *men*. . . .
 You may see how happy this has made me. I look upon y^r l^d as part of myself. . . .

“I am, my dearest Lord,

“ever most cordially y^{rs},

“HOLLES NEWCASTLE.”

During the discussion on the measure in the House of Commons, the following note was written by the Lord Chancellor to Mr. Charles Yorke :—

“*Powis House, May 12th, at night.**”

“DEAR CHARLES,—I forgot to mention to you an argument which I have heard as coming from Mr. Fazakerley. *That clandestine marriages are a mischief or inconvenience to private families, but not to the public.* I think this is too weak to be his ; for what is the public or community, but an aggregate of particular families or persons ? And what is, or may be a general mischief to them, must be so to the public. The same argument might have been used against the *Will Bill*, & with rather more reason, for it is in most cases very indifferent to the public whether John or Thomas enjoys an estate.

“Your's affectionately.

“H.”

Mr. Nicholls, in his *Recollections and Reflections*, says—

* Hardwicke MSS., Wimpole.

“The Earl of Hardwicke has been abused for the Marriage Act ; and I think with some reason ; his mistake was an incautious departure from the common law. The common law had established, that where the male was under fourteen, and the female under twelve, at the time the marriage was celebrated, the parties might avoid the marriage after the age of disability was passed ; but if they lived together as man and wife after the age of disability was passed, it had always been held that the marriage became valid and unavoidable. But in the Marriage Act introduced by the Earl of Hardwicke, it was unfortunately enacted, that where either of the parties was under the age at which the marriage was allowed, without the consent of parents or guardians, a marriage celebrated without the consent of parents or guardians should be deemed actually void ; from whence it followed that no subsequent cohabitation could render it valid. This departure from the common law has been productive of much calamity to many individuals ; as children have been declared illegitimate, and incapable of inheriting, where parents had cohabited thirty years subsequently to a marriage supposed to have been lawful.”

Cases of individual hardship will perhaps be found attendant on, and inseparable from every grand measure for the good of the generality, and are as the fines exacted for the introduction of the new system. Such is almost necessarily the result, where a bad course, which was in full operation, has to be rooted out ; but this, as much as any thing, bears testimony to the reality of the existing evil, and the expediency of an efficient remedy.

In the present instance, the amount of general good effected by the measure in question outweighed beyond all comparison the utmost extent of individual injury which could by possibility have been inflicted by it.

Moreover, many measures which are in themselves good and just may be rendered hurtful, for the time at least, by the precipitate manner in which they are brought into operation. But in the present case there seems to have been no just cause of complaint, even on this ground.

Among other absurd attacks which were made on Lord Hardwicke, for his zeal in the promotion of this measure, it was asserted that he had been induced to bring it forward to prevent his own children from forming low matrimonial connections:—the real fact being that they were each already married into the first families. *

The animosities occasioned by the discussions on the Clandestine Marriage Bill, did not very readily subside ; and between Lord Chancellor Hardwicke and Mr. Fox, the war of words might have been carried on to an untoward extent, had not their eloquence been silenced by the termination of the session. Mr. Pelham exerted himself to reconcile the two combating colleagues:—but the subject of their ire would seem to be in its very nature so exciting, that even the attempt to legislate upon it was productive of extraordinary broils between those conjoined in the uncertain bonds of mere political union. Mr. Pelham not only defended Lord Hardwicke in public, but expostulated with Mr. Fox in private, and at length his efforts were attended with that success with which, in matrimonial quarrels of another kind, the interference of a stranger is seldom blessed.

The King, says Coxe, expressed himself dissatisfied with Mr. Fox's conduct, and received from him a solemn disavowal of any factious or improper motive.

The Peers were inclined to extend the operation of the Marriage Act to Scotland, and numerous are the flights on the wings of love to that romantic part of Her Majesty's dominions that would have been rendered un-availing, had their lordships persevered in so ungallant a course. An order was passed for the Lords of Session to frame a similar bill for that peculiarly connubial part

* Law Magazine.

of the United Kingdom. For reasons, however, which the historians of that period have failed to record, no such anti-matrimonial measure was adopted. Their descendants of our day have, nevertheless, been convinced of the necessity of so restrictive a proceeding, and have lately supplied the omission.

Lord Breadalbane wrote to Lord Chancellor Hardwicke from Scotland, on the 23rd of June, and thus described the state of feeling in that part of the kingdom on the subject of the Clandestine Marriage Bill.

“ The manner of opposing the Marriage Bill in the House of Commons was the subject of a great deal of conversation at Edinburgh, & I had the satisfaction of hearing Mr. Fox’s behaviour universally blamed. Justice is done to your lordship’s merit in this countrey, & even, if ’tis possible to be partial where you are concerned, the people here in general are so. Surely such a bare-faced personal attack must carry shame with it ; tho’ whoever is capable of making a law, so salutary to the public, subservient to faction & private intrigue, won’t be easily put out of countenance, but I hope will be disappointed in their views.”*

An act of Parliament was passed during the present session for permitting Jews to be naturalized. No account of the debate on this subject in the House of Lords has been preserved ; but, as the measure was introduced by the Government, we may suppose that it received the approbation of Lord Hardwicke. Several merchants and manufacturers supported the bill, and thought that the consequencers of such a naturalization would produce a great accession to the monied interest.

* Hardwicke MSS., Wimpole.

Lord Chancellor Hardwicke's visit to the University of Cambridge, as their Lord High Steward—on which occasion the degree of Doctor of Laws was conferred upon him—is fully described in the following letter from Mr. John Yorke to his eldest brother, written on the 19th of June, together with all the festivities and rejoicing with which the event was celebrated.

“ My lord went to Cambridge upon Friday last. The ceremony, degree, and place of dining you will read in the newspapers. He was attended by the deputation at Clare Hall, where Dr. Yonge, the Vice-Chancellor, made a short speech to him, in which he read the grace which the University had just passed, expressive of the high sense they had of his merit, & of the honour he did them; & then concluded, that the University were sensible they could add nothing to his dignity, & that they were consulting their own honour, while they beg'd leave to show him this instance of their high regard. The paper I have inclos'd contains his answer, which he compos'd in his mind while Dupplin held him in discourse at the Master of Clare Hall's lodge, & which he delivered with an affection to the University which gave pleasure even to Harry Hubbard. The orator was instructed to present him to the Chancellor, with only a few words by way of introduction. These were not well chosen, too common, & nothing characteristic conveyed by them. *Omni eloquentia major* was the sum of all he said. The orator presented other noblemen afterwards, in a long & wordy speech, accompanied with so much action, & such violent & improper panegyric of L^d Granville, that my ideas of his talents for oratory have not been raised by hearing his performance. The grace for

conferring a degree upon papa was drawn up by him, & seemed to be very well turned & expressed.

“ He delivered his speeches *memoriter*, & I was told that he did not even bring them in his pocket. There was a most crowded theatre; but the day was cool, & the ceremony well conducted. Upon Saturday morning the Duke of Newcastle made a valedictory speech to the University assembled in congregation, which I hear was received with great approbation. He told them how agreeably he had passed his time there, & thanked them for their attention to him. He communicated the King’s intention to contribute to the carrying on their public building, as a mark of his good opinion. The honor papa had done the university, & his character, were much enlarged upon. Religion, loyalty, & unanimity were strongly recommended. I suppose what I have just mentioned was done to make up for what is past, but it was *in foro prorsus alieno*.”*

The following is the address delivered by Lord Chancellor Hardwicke, to the deputies of the senate at Cambridge, in Clare Hall, June 15th, 1753:—

“ MR. VICE-CHANCELLOR AND GENTLEMEN,—From the time the university of Cambridge did me the honour unanimously to confer upon me the office of their High Steward, I have wished for a proper opportunity of returning my thanks, & paying my respects to them in person. I have waited for such an opportunity as this is, when your Head being present with the members, I might attend upon this very learned, loyal, & illustrious body, in its full and entire splendor.

“ The message which you have brought me from the senate, and the grace which you, Mr. Vice-Chancellor,

* Hardwicke MSS., Wimpole.

have just now read to me, do me the greatest honour, not only by the subject-matter of them, & the dignity of that venerable assembly from whence they come, but also by the hands through which they are conveyed to me.

“Tho’ I had not the happiness to receive my education amongst you, yet my high sense of, & value for, this university, have manifestly appeared by committing so many of my sons to your care. The care and instruction which you afforded them, I consider as the greatest of obligations. In return for all these favours, of which I shall ever retain the most grateful sentiments, permit me to assure you, that I shall make it the endeavour of my life zealously to promote the honour & true interest of this University, & the service of its members.”*

The letter from Mr. John Yorke, lately quoted, contains a reference to the disagreement with Mr. Fox, which arose out of the debate on the marriage bill, already referred to:—

“Mr. F—x has complained to His M——y of the treatment he has met with, but received a strong rebuke. This gave papa a very proper occasion to explain what had passed, in his audience of to-day, tho’ he said at the same time he did not mean to make any complaint at present. He was told he had never done righter in his life; it was necessary for your own honour & *mine*.

“My lord said, He had made it the rule of his life, which he had inviolably kept, never to begin anything personal in publick or private, but always to return it. That is my rule said ——, never to begin, but I love reprisals. He never was more gracious; spoke much of his obligations to my lord, & of the personal esteem he had always had for him. Papa was full of his praises of

* Hardwicke MSS., Wimpole.

the University of Cambridge, which were extremely well received. He said he had given them encouragement, for both the archbishops, & eleven of the bishops, were of that University. He wished the other University was in the same disposition, tho' he heard they were growing better. My lord said there were some very good men among them, who deserved to be distinguished.

"The Archbishop is a vast deal better, & has even been on horseback, & rid on Banstead Downs, with great pleasure & no inconvenience. He writes in great spirits."

The letter which follows was also written by Mr. John Yorke to his eldest brother:—

" Powis House, June 23rd, 1753.

. . . . Birch must be sent for or gone to, otherwise you never see him (out of Parliament time) except at a sale of state papers, or the execution of a state criminal. L^d Chesterfield writes Worlds * without End. That of Thursday was sev'nnight had a good deal of wit in it. Vulpes † gives out that his master is not offended with him; but those who can discern the face of the sky, say that his barometer is settled at dark and gloomy. Neither he nor L^d Chesterfield were spoke to by the K—g upon the accession day, while my lord was twice very graciously noticed. Master Sharper's *humility* kept him in the outer room. Mr. Pelham goes to Scarborough on Thursday, & in the meantime has graced with his presence a great entertainment at *Reynard's*, † where he staid late & drank freely. At his levee nobody is so soon admitted; to the mortification of some, & astonishment of all. Count Bentick & Andrew Mitchell are still here,; & of Jo' I hear nothing. The Protester of

* Contributions to a periodical of that name.

† Mr. Fox.

this day, I am told, is an abuse upon the King's speeches of some time past. Ralph will soon grow scurrilous. I suppose you have heard that he offered his pen to Mr. Pelham, who *despised his scurrility, & rejected his adulation*. These words remind me of Dr. Birch's letter, which is in my hands, & shall be carefully returned. The Archbishop grows better every day, drinks ass's milk & rides on horseback, & expresses great hopes of his own case. I can tell you nothing that you will be better pleased to hear, & will therefore aim at nothing more."

The following extract is made from a letter which was written on the 24th of July, by Mr. John Yorke, to his eldest brother; and relates, in part, to events arising out of the political measures of the past session, already adverted to, and in part to the domestic movements of the Chancellor and his family at this time:—

“*Powis House, July 24th, 1753.**

“*Tuesday.*

. “My journey to Moore Park was pleasant. But I thought it unfortunate that the whole neighbourhood sho^d happen to be invited on that day to make me sick with seeing them eat turtle. But without pretending to be witty, a great deal of company, a large dinner, & a jumbling postchaise to conclude the day in, overcame me; & till this day I have not recovered, (as puffy Johnson says,) the action of my stomach, or the confusion of my head.

“I have sent you by this post a correct copy of Papa's letter to the B^p of Oxford. There has been printed in the London Evening Post, a *Jerusalem Gazette*, for the year 1800, when the whole nation is supposed to be

* Hardwicke MSS., Wimpole.

converted to Judaism. I have not yet seen it, as they were all bought up immediately by the wits. One article in it is, that on such a day Mr. Attorney-General *D'Acosta* filed an information against somebody who had dared to write in defence of Christianity, & many other jibes of like nature.

“As we drove to the D. of Argyle's, on Sunday, Papa read us a very pretty letter from L^d C. Justice Singleton to Mr. J. Yorke, upon the subject of his resignation; by which I find our namesake is to succeed him. We were magnificently entertained at Whitten, where we met L^d Bute, who seems to have *great store & variety of knowledge, & very entertaining company*. I was haunted there also with the sight of a turtle, which with very little force of imagination, I could have made perform the part of an emetic. The Duke was particularly civil, but seems broke, & rather feeble. He is to survey Wimple upon Wednesday next, in his way into the North. I never saw any man who seemed to have about him such great variety of amusements, & his plantations are a great curiosity. The Chancellor's plant, which Dr. Dell had heard of, proves to be the *Dwarf Virginia Medlar*; a very humble shrub indeed. I think his lordship was almost ashamed of the distinction given to it. I have seen neither Wray nor Birch.

“P.S. Charles is positive that the pamphlet in defence of the Marriage Act, w^{ch} lyes upon your table, was wrote by Dr. Hay, & is very good. I take this to be mere conjecture; like some of his relating to L^d Somers.”

Mr. John Yorke tells his brother Philip, in another letter written to him soon after the above:—

. . . . “Papa has charged me to inform you that he has ordered a buck from Wimpole to

Cambridge, for my lords, the judges, to regale on ; but you are not to take it that this compliment to the bench is designed to hinder you from sending for another for the gentlemen of the grand jury, in which you are at full liberty to use your own pleasure & discretion. . . .

“ Wray is set out for Rumford this morning, & Birch is tied down by the indispensable & endless duty of rubbing his elbow over proof sheets.”*

Lord Chancellor Hardwicke, in a letter to Mr. Yorke, dated “ Powis House, Aug^t 18th, 1753,” affords us a brief sketch of his occupations and intended movements at this time.

“ I can now acquaint you with pleasure that I finished my business in chancery yesterday noon, a day sooner than I expected. My present intention is to set out for Wimpole next Thursday morning ; & in the begining of the week following, we propose to make our long promised visit to Normanton & Stocken, which will take up a week, or at most ten days, in going & returning. I live in hopes of fair weather for it. It has been very disagreeable of late, but it is grown drier, tho’ the warmth is not returned. The greatest pleasure I promise myself after my return, is in your’s, Lady Grey’s, & Lady Bell’s good company, which I hope you will favour us with as soon as you can. We shall loose Charles, for he has declared his resolution to set out on Tuesday next for the Hague, & from thence for Spa, if the weather favours those waters, & is not too wet. He thinks they will be good for the complaint which has more or less affected the fore part of his head since the last winter.”†

* Hardwicke MSS., Wimpole.

† Ibid.

Another epistle addressed by Lord Hardwicke to Mr. Yorke, some time after the above, commences thus:—

“ I never was more shocked in my life than with the dreadful account you give me of Lord M——’s fatal end.
 . . . What an exit are these gentlemen of spirit & pleasure apt to make !” *

A letter from Mr. Justice Yorke to Lord Chancellor Hardwicke, written on the 31st of August, informs him of the former’s appointment to succeed Lord Chief Justice Singleton, in Ireland.

Sir W. Yorke says, “ The kind & considerable part, w^{ch} your lordship hath borne on this occasion, encreases, if possible, my former obligations ; & I shall endeavour, as the most acceptable return to your lordship, so to conduct myself as not to dishonour my great patrons, or discredit myself.” †

Archbishop Herring, in a letter to Lord Chancellor Hardwicke, dated October 11th, 1753, tells him of some visits he had lately paid to the Princess Dowager of Wales, and to the King.

“ I waited upon the Princess at Kew, last Thursday, having been at Kensington the Thursday before. H. R. H. rec^d me very graciously, called the Prince & all her family about her, & did me the honour to walk round the garden & shew me the orangerie. What added to the favour was, she was pleased to go my snail’s pace.

“ When I p^d my court to the King, I followed him into his closet, & made my excuse for not paying my duty so often as became me, & I wish’d to do, & hinted a word about his indulgence of absence this winter. His Majesty was very kind in his answer, but said Croydon was so near that I might come at any time.” ‡

* Hardwicke MSS., Wimpole.

† Ibid.

‡ Ibid.

Dr. Archibald Cameron, brother to Cameron of Lochiel, chief of the tribe who had risen during the rebellion in 1745, in favour of the Pretender, escaped to the continent after the battle of Culloden, where he was severely wounded. He was included in the general act of attainder passed against all those who had been concerned in the rebellion. He afterwards returned to Scotland, and this year he was apprehended, brought to London, confined in the Tower, examined before the Privy Council, and, his identity being proved in the Court of King's Bench, he received sentence of death, and was executed at Tyburn. His fate is said to have been much compassionated by the populace, who deemed the conduct of the government relentless and revengeful; and Lord Campbell* denounces his execution as "a wanton atrocity," and censures Lord Hardwicke as being an accomplice in this proceeding, from his connection with the government.

It appears, however, from Lord Chancellor Hardwicke's correspondence, that it was not the mere fact of Doctor Cameron's return into this country which drew down upon him the vengeance of the government for his past offences, but that, since he had come back to Scotland, he had been present at several treasonable meetings, and was in constant communication and alliance with the persons concerned in the murder of Mr. Campbell already described, if not indeed a principal in the crime.

Several letters were addressed to Lord Chancellor Hardwicke on this subject by Lord Breadalbane, and the "necessity of making an example of Dr. Cameron," is here enforced.

On the 15th of November Parliament was again opened. During the recess the public feeling had been manifested very strongly, and in various ways, against

* Lives of the Chancellors.

the late act for the naturalization of the Jews, some of the attacks directed against which have been already described. The ministry were now afraid that, unless they yielded to the popular opinion on this subject, they would not be supported at the approaching dissolution of Parliament. Accordingly, on the first day of the session, the Duke of Newcastle presented a bill for repealing so much of the late act as related to the naturalization of the Jews. He grounded the proposal on the ferment that had been made, which he represented as the fruit of a disaffected spirit. He declared that he still retained the same sentiments with regard to the original measure, but considered that the disturbance of the public tranquillity would prevent any beneficial effects from arising from it, and would rather excite odium against the Jews resident in this country. The bill which he offered did not comprise a simple repeal, for still farther to satisfy the country, he proposed to retain the clause incapacitating the Jews from acquiring any advowson or interest, in any ecclesiastical establishment, hospital, or school.

Earl Temple deemed it beneath the dignity of Parliament to pass a law one session, and repeal it the next. He thought the act of much importance; that it would bring much wealth into the kingdom; and that its good effects would not be prevented by the clamour that had been raised. The Jews would be protected by our laws, and would not be frightened by the ravings of the mob. The clamour was founded on error, and Jacobitism favoured it. The Jews were warm supporters of the present establishment, and the legislature ought not to repeal a necessary law to conciliate popular prejudice. They were also of great advantage to our commerce, and

in every point, a repeal of this law would make us appear ridiculous.

Lord Chancellor Hardwicke next rose. His speech on this occasion is of interest and value, as containing the opinion of so great a constitutional lawyer and statesman, as to how far, and in what cases, a government may and ought to yield to popular clamour, where this is founded in reason, strongly manifested, and impossible to repress.

Much ingenuity is also displayed in some of the Chancellor's reasoning, and great knowledge of human nature, and of the conduct and mind of the nation.

The extent to which laws are available to control and restrain the feelings of a people, and in what cases they are inefficient here, are well pointed out.

The extracts which follow are taken from this speech ; and the sentiments here contained are generally applicable to measures of the present day, as well as to those of the time at which they were delivered.

“ If the safety and happiness of the nation depended evidently upon this law being continued and carried into execution, I should be against the repeal ; not because I should be for cramming even the most wholesome physic down the throats of my countrymen, but because I have an opinion of their good sense, and from thence should expect that they would in a little time discover the utility of the law, and repent of the opposition they had made to it. This was the case in the beginning of the late reign ; a blind, zealous, persecuting spirit had been for very bad ends industriously propagated, and then generally prevailed among those of the established church. This spirit it was necessary to crush : both the safety and the happiness of the nation absolutely required that it should. The legislature, therefore, did right to take proper measures for putting an end to it ; it would have been downright madness to have yielded to madmen. What was the consequence ? As soon as the people had time to consider and to cool, they saw their folly and approved of what had been done.

“I do not think an unpopular measure ought to be obstinately persisted in. We should treat the people as a skilful and humane physician would treat his patient: if they nauseate the salutary draught we have prescribed, we should think of some other remedy, or we should delay administering the prescription till time or a change of circumstances has removed the nausea. This may happen in the present case: while the act subsists, the ferment of the people will subsist with it, and no one can tell how violent it may grow; but after the act is repealed this ferment will soon subside, the people will grow cool, they will then discover the consequences of the act, had it subsisted, without prejudice: by so doing they will discover the advantages that might have accrued from it, and that all their apprehensions were groundless, and then they may as generally desire to have it revived as they formerly did to have it repealed.”*

The Duke of Bedford next addressed the House; and after him Lord Granville and the Bishop of Oxford, Dr. Secker, when the bill was read a first time. The excepting clause proposed by the Duke of Newcastle was struck out in committee, and the bill passed the house on the 23rd of November without a division. And after several proposals and discussions with regard to different points, the measure was also sanctioned by the House of Commons, and subsequently received the royal assent.

The error, if any, which was here committed by the government, was not with regard to the justice on which the original measure in question was founded, but consisted in a miscalculation as to the amount of bigotry and intolerance which the nation was capable of disgorging, and which the government had charitably supposed to be much smaller than it was proved to be. This was a mistake, not as to the real merits, but as to the temporary effect of the proposal. Posterity has, however, confirmed the opinion of Lord Hardwicke and the government, by its adoption of their measure. And the ministry of that day had no object in introducing it, but

* Hansard's Parl. Hist.

the desire to perform an act which appeared to be one both of justice and expediency.

A measure may be good in itself, just towards those who are the objects of it, and fair as regards those not immediately affected by it; but which the strong feelings and prejudices, though erroneous, of others may render quite inexpedient, and so, as in the present case, change the whole state of the affair, and actually prevent the measure working efficiently, or having any beneficial operation whatever.

During the year 1753 Dr. Birch, who had lately, through Lord Hardwicke's interest, been appointed one of the trustees of the British Museum, published his edition of Thurloe's State Papers, with a dedication to Lord Chancellor Hardwicke, in which he mentioned:—

“Your lordship's influence and encouragement in producing to the world the present collection, give you the justest claim to this address. And, indeed, separately from this particular consideration, my veneration for and obligations to your lordship would have necessarily determined me to offer to you a work, which has dignity and importance enough in itself to atone for any defects of mine in point of accuracy or judgment as the editor.”

At the commencement of the year 1754 His Majesty was pleased to repeat the offer which had before been made to Lord Hardwicke, but which he had modestly declined, of advancing him to an earldom. To this matter the Chancellor alludes in the following passage of a letter written by him to the Duke of Newcastle on the 8th of January.

“Mr. Pelham is very good to me in what he says on that topic which concerns myself. Your Grace is a witness with what coolness and indifference I have always looked upon that rise in rank; but I see your brother considers it in a higher light, which, as it regards us all, makes it much the more interesting and agreeable to me. This way of considering it has made me reflect once more upon the resolution we

took, about the time of my waiting upon the King, and I beg your Grace would send me your opinion to-night in three words, whether, as His Majesty directed your Grace to acquaint me with this his serious intention, I should not go to-morrow morning. Do not imagine that this proceeds from any affectation or forwardness, for it arises merely from the light in which Mr. Pelham takes it, and from an apprehension that the King may think that you would immediately acquaint me with it, and that I am guilty of some neglect towards him. In every other respect it is indifferent to me, and therefore be so good as to tell me your opinion frankly.”*

Mr. Pelham, when writing to the Duke of Newcastle on this matter, says:—

“I hope, for all our sakes, the Lord Chancellor will not decline in accepting it. I know few things that would give greater *éclat* at present than this promotion. I hope we shall not lose the benefit of it.”†

In a letter which Lord Chancellor Hardwicke wrote to a friend in Scotland, on the 7th of February, 1754, he thus expressed himself with regard to the measures relating to that country, which he had lately been propounding:—

“You do me a great deal of honour, as well as justice, in the opinion you express of my way of thinking & acting with regard to Scotland. I have proceeded, & shall continue to proceed, upon the uniform principles of extending the vigour & benefit of the laws over the whole country; of suppressing all private power that tends to obstruct the due course of those laws, & the proper influence of His Majesty’s government; of civilizing & improving the country, & making them feel the advantage of property; & upon these solid foundations to build up loyalty and good affection to the King and his family.

“I allways looked upon the Annexation Bill as a measure justly calculated for those ends, & in that view

* Newcastle Papers.

† Coxe’s Pelham.

promoted it to the utmost of my power. It has given me great concern that so much time has passed before it co^d be carried into execution; but that has been alledged to be unavoidable, by reason of the claims not having been yet finished.

“As there is now a new Lord President of the Session, of strength & ability, in body as well as mind, I hope those cases will receive no farther delay.” *

The following is from Mr. Dodington’s Diary:—

“1754, Feb. 28. Council at St. James’s. The Judges attended, & were called in. A charge was delivered to them, (the King present, and in his name,) by the Chancellor, to be by them given on their respective circuits, agst irreligion, immorality, murders, poisonings, &c. This was in consequence of a motion in the House of Lords, by the Bishop of Worcester, for something to be done by the Legislature to this effect, in consequence of the last paragraph of the King’s speech at the opening of the session.”

Among other things, the Judges were particularly directed to “exhort & encourage the gentlemen of the several counties, who are in the commission of the peace, to act as justices of the peace, for the support of His Majesty’s Govern^t, & the general good of the country.” †

Mr. Pelham died on the 6th of March, 1754, sincerely regretted by the nation, & lamented by his Sovereign. Lord Chesterfield says that “he had a gentleman-like frankness in his behaviour, & as great point of honour as a minister can have, especially a minister at the head of the Treasury, where numberless sturdy and insatiable

* Hardwicke MSS., Wimpole.

† Ibid.

beggars of condition apply, who cannot all be gratified, nor all with safety be refused." The above noble writer also states that Mr. Pelham "was a very inelegant speaker in parliament, but spoke with a certain candour & openness that made him be well heard, & generally believed."

The following letter from Lord Chancellor Hardwicke to the Archbishop of Canterbury gives a full account of the state of affairs in the cabinet at Mr. Pelham's death, and of the measures which were adopted in consequence of that catastrophe, which eventually led to the appointment of the Duke of Newcastle to be Mr. Pelham's successor at the head of the Treasury, as is here anticipated by Lord Hardwicke. During the interval which elapsed between Mr. Pelham's death and the selection of his successor, the whole weight of the duties of first minister of the Crown devolved on Lord Hardwicke.

*" Powis House, Mar. 11th, 1754.**

" Monday, 8 at Night.

" MY DEAR LORD,—The late melancholy event has greatly affected us all. I am sure nobody is more sincerely concerned for it than your Grace, & at the same time, I fear you are angry with me for not writing to you upon it, & the consequences of it; but I give your Grace my word that I have had no time. The poor Duke of Newcastle, under the most overwhelming grief, has been shut up; & I have been forced, in the midst of a broken attendance of the Court of Chancery, to be continually running about to the King, & to have meetings with the principal persons in the administration. If your Grace had been nearer, you had not escaped. But to proceed to business.

" Your Grace has heard that the first candidate at

* Hardwicke MSS., Wimpole.

Court is Mr. Fox. Your Grace knows my situation with that gentleman. Within a few hours after poor Mr. Pelham's eyes were closed, I had not less than three very humiliating & apologizing messages from him, w^{ch} have not at all altered my way of thinking; but I am determined to act such part as I think best for the King and my friends, in the present critical conjuncture; & to consider *personalities* no further than to maintain & save the point of honour.

“In the several audiences which I have had of the King, His Majesty has declared that ‘*he has no favourite* for this succession, that he shall be for the best man who can carry on the publick service. That he w^d have it considered by the lords of his cabinet council, & know their opinion. But he hoped they w^d not think of recommending to him any person who has flown in his face.’ The meaning of this is plain, & I have seen Mr. Fox thro’ it, tho’ His Majesty has never named him to me. Your Grace knows his great supporter at Court, & from that quarter the prepossession comes. I have thrown out several considerations to His Majesty, from day to day, & so have others. These have made an impression upon him, & he has been more *deliberative*. He begins to find that all the world are not like Mr. Fox, as he had been told; for in truth it is a very narrow clicq, & many of them of the worst sort. If he shou^d succeed to the plenitude of power w^{ch} Mr. Pelham had, there is an end to this administration, & of all that you & I wish well to in that respect. He wo^d also, by his connection in a certain place, have another power added to it, which Mr. Pelham had not for several years, the army. So here wo^d be the *Treasury*, the *House of Commons*, & the *Sword* joined together. At the same time, there is a great scarcity of men to fill the place with, in any shape.

The opinion therefore which I, with my friends in the cabinet have formed is, that there is, at present, no person in the House of Commons fit to place entirely in Mr. Pelham's *situation* with safety to this administration, & the Whig party. Upon this, they have proceeded to think of advising His Majesty to place *some peer* at the head of the Treasury, with a Chancellor of the Exchequer in the House of Commons under him. That peer must be somebody of great figure & credit in the nation, in whom the Whigs will have an entire confidence. He must be one who will carry on the election of the next Parliament upon the same plan on w^{ch} Mr. Pelham had settled it, without deviation. This is at present the *immediate fundamental point*. That once well settled & effected, the rest will follow with time. The Duke of Devonshire has declined it, but is entirely connected with the Duke of Newcastle, the Duke of Grafton & myself. In consequence of this, the Duke of Newcastle has been entreated by his friends to quit his present office, & go to the head of the Treasury, if His Majesty shall approve it. In him the Whigs will have confidence. His Grace is much averse to it, & has good reasons against it, but will, I believe, for the sake of the whole, submit to the entreaties of his friends.

“ The lords of the cabinet are to meet at my house, to-morrow evening at seven o'clock. There is no expecting to see your Grace here at that hour, nor do the Duke of Newcastle or I incline that you should run any risque. But we both wish to know your sentiments, & humbly hope that your Grace will authorize me to say something in your name. If your Grace is of this opinion, upon the matters submitted to your consideration, we both beg of you to write me a short letter by this messenger, signifying that, ‘in your view of the present

circumstances, your Grace apprehends that it will be most for His Majesty's service to divide the two offices of First Commissioner of the Treasury & Chancellor of the Exchequer, & to put some peer of great rank & weight at the head of the Treasury, & to fill the Chancellor of the Exchequer's place out of the House of Com'ons, as has been done in many instances. That, if His Majesty wo^d be pleased to direct the Duke of Newcastle, who has served him with great ability & integrity, to change his office of Secretary of State for that of the First Commissioner of the Treasury, your Grace thinks (if such is your opinion) that it wou^d be the best measure for His Majesty's service in this critical juncture, & maintain the system of things upon the same foot upon which they have been for several years carried on with great success.' I ask pardon for having presumed to go so far in the plan of your answer; but as I am at present more in the scene, I tho't you would have the goodness to excuse it. This is the way of thinking of all the friends to your Grace & me, & as you are not used to differ from them, I hope your answer will be to this effect. All the words, which I have inserted, that are complaisant to the Duke of Newcastle, are entirely my own, for his Grace has not seen this letter, nor knows one word that is in it. Indeed, poor man, his excessive grief makes him just now very unfit for business; so much so, that I believe he will not be able to bear being at the meeting; but we shall want the joint assistance of all our friends, though I am persuaded there will hardly be any difference of opinion. But that *joint assistance* will be wanting to carry the measure through *effectually*. Besides such an *ostensible* letter, I shall be much obliged for a *separate private* letter to convey any particular sentiments & observations which your

Grace shall honour me with. But that must be a *separate* letter.

“ If this plan shou^d take place, we must expect that some promotion will be insisted on for Mr. Fox. That has been treated of *secretly* already, & possibly it may be that my Lord Holderness shou^d take the *northern province* as Secretary of State, & Mr. Fox be made Secretary of State for the *southern province*. If the power of the Treasury, the secret service, & the House of Com^{ons} is once well settled in safe hands, the office of Secretary of State of the southern province will carry very little efficient power along with it. The plan of the election of a new parliament will be in safe hands, which (as I said) is the *immediate fundamental object*. When that is once well settled & chosen, with a good majority of sound Whigs, everything else will be consequential.

“ I am afraid I have tired your Grace, but I cou^d not be shorter, & explain myself. Your Grace will forgive me for the sake of your friends & the good cause, to which you are so zealous a well wisher, & so great a support. I must add one thing more, that your Grace wo^d keep this letter & send it back to me after this affair is over, that I may take a copy of it, after which it shall be faithfully returned.

“ I am, most entirely,

“ My dear lord,

“ Ever your’s,

“ HARDWICKE.

“ PS.—Your Grace will introduce your letter by mentioning that you having *notice of this meeting, by the King’s command, & not being able to attend, send your thoughts to me, &c.*

“ Be so good as to let me have your Grace’s answer to-morrow, by eleven o’clock in the forenoon at furthest.”

The meeting took place, as proposed, at the Chancellor's House; & the following is the indorsement in Lord Hardwicke's handwriting, on the minute of the proceedings on that occasion.

*" Powis House, March 12th, 1754.**

" Minute of such of the King's servants as are of the Cabinet C'eil, who met, in obedience to His Majesty's commands, to consider of filling up the vacancies happening by Mr. Pelham's death.

" N.B.—I delivered this minute on Wedn. Mar. 13th, to the King in his closet, who read it over deliberately, & entirely approved thereof. His Majesty was afterwards pleased to deliver the same back to me to keep.

" Mr. Fox did, a few days afterw^{ds}, decline the office of Secretary of State, & S^r Tho. Robinson was appointed."

From this minute it appears that the views of the Chancellor, as expressed in his letter to the Archbishop, were fully carried into effect; and it is mentioned that "the Lord Chancellor laid before the lords a letter, which he had received this day from the Archbishop of Canterbury, acquainting him with his Grace's opinion to the like effect."

In another part of the minute it is stated:—

" The Lord Chancellor further acquainted the lords that His Majesty had been graciously pleased to open to him his own ideas as to what might be proper to be done on this occasion; and to direct him to communicate them to their lordships, in order to His Majesty's being informed of their sentiments thereupon."

Archbishop Herring, in a private letter to Lord Chancellor Hardwicke, written a few days after this, says—

* Hardwicke MSS., Wimpole.

“ I fear for the King, for the nation, & for our noble friend the D. of N., who has lost his right hand ; at least in my sense, he has no faithful support left him but your lordship. . . . All I converse with, look up to y^r lordship as our common friend & support, & the only man that can steer us happily thro’ the difficulties that hang round us.”*

On the completion of the proposed arrangements, the Duke of Newcastle, who was appointed prime minister, addressed the following grateful and warmly expressed letter to Lord Hardwicke, which is indorsed by the Chancellor, “ Tuesday, Mar. 12th, 1754.”

“ *Newcastle House,*†

“ *Tuesday 3 o’clock.*

“ I cannot lose one moment in returning my thanks from the bottom of my heart to my dearest & ablest friend, for the kind, affectionate, & zealous part you have acted towards one who depends upon you for not being exposed where you have placed me ; & for the great & noble part which you have acted, as a great minister, to determine the King in an affair of this importance. The best acknowledgm^t I can make to you is to put myself entirely, which by this letter I do, under your care and direction. I heartily thank you once more, & am ever most gratefully & sincerely yours,

“ HOLLES NEWCASTLE.

“ Lord Chancellor.”

Among other persons who had been thought of to succeed Mr. Pelham as Chancellor of the Exchequer, was, as already stated, Mr. Fox. Coxe says, however,

* Hardwicke MSS., Wimpole.

† Ibid.

that the affronts which he had offered to Lord Hardwicke during the debate on the Marriage Act, were among other considerations objected to him. An overture was nevertheless made to him, offering the seals with the management of the House of Commons; and a reconciliation was effected in a personal interview between himself & the Chancellor. In the end, however, the arrangement was not carried out, & Mr. Fox declined to accept the office.

Dodington mentions that after the death of Mr. Pelham, "Lord Bath sent a message to the Chancellor, that if Mr. Fox came in, old as he was he would muster up a party to oppose."

The same writer states that some time after Lord Barnard died, the Duke of Newcastle proposed the new Lord Barnard and Lord Chancellor Hardwicke to the King for an earldom, who refused both, and told him, "he supposed he designed to leave nobody on the Baron's bench, and now that he had *cheated* Lord Barnard out of the settlement of succession to his estate, he wanted to make him amends by promoting him to be an earl."

This assertion, however, was certainly incorrect as regards Lord Hardwicke, to whom it appears the honour had before been offered, and declined by him.

It is mentioned in the memoir in the *Annual Register* already quoted from, that after Lord Hardwicke had executed the high office of Chancellor for seventeen years,—

"In times of accumulated difficulty and danger, from a long, expensive, and on the whole unsuccessful war, violent contests of parties and factions at home, and a formidable rebellion countenanced by a most powerful enemy, and had twice been called to the exercise of the office of Lord High Steward on the trials of peers concerned in the rebellion; he was in April, 1754, advanced by his late Majesty, as a mark of his royal approbation of his services, to the

rank of an Earl of Great Britain, with the titles of Viscount Royston, and Earl of Hardwicke.

“This favour was conferred unasked, by a Sovereign rather reserved in the bestowing of honours, but who had the truest sense of Lord Hardwicke’s zeal, knowledge, and integrity, who treated him through the course of a long and glorious reign with particular esteem and confidence, and always spoke of him in a manner which showed that he set as high a value on the man as on the minister. This testimony from a Prince remarkable for truth and sincerity, does equal honour to the Sovereign and to the subject.”

So far, indeed, from the Chancellor having made repeated solicitations without success, to obtain these additional dignities, as his unscrupulous assailant Horace Walpole has asserted, they had several times before been pressed upon him, but modestly declined; and the only surprize at the time was that the earldom had not long before been conferred. One of his biographers* endeavours to account for the delay by stating that Lady Hardwicke insisted, for prudential reasons, on its being deferred until both their daughters were married, and that a friend of his assured him that this lady had told him that “the Lord Chancellor was in a hurry to be made an Earl, which the King would make him any day he chose it, but I delay it as much as I can. These girls you see submitting with so much humility and observance, to consult me even in the little article of dress, would perhaps, by the acquisition of titles, be transformed into fine ladies, and abate in their respects to me. Their fortune too, on marriage, must be doubled. Ten thousand pounds, which would be deemed a sufficient fortune for a Miss Yorke, must be made twenty to a Lady Elizabeth, and a Lady Margaret.”

* Cooksey.

Considering, however, the uncertainty of the life of King George the Second, and his still more uncertain temper, and that at any moment the Chancellor and his colleagues might have been discarded, it does seem somewhat extraordinary that the acceptance of the proffered honour, so long due to the eminent services of this great man, should have been thus delayed, with the tardiness characteristic of the court of which he was the head. It evinces, nevertheless, how indifferent in reality Lord Hardwicke was, about the distinctions which the world so eagerly covets.

An absurd and unfounded rumour was circulated at the time that His Majesty's intention of advancing Lord Hardwicke to an earldom was announced, that his lordship had selected the title of Earl of Clarendon, as that to which he should be raised. Lady Charlotte Hyde, on the 10th of March, addressed a letter to the Lord Chancellor, informing him of the relationship of her own family to the last Lord Clarendon, and of their desire to obtain a restoration of that dignity, which indeed had already been intimated to the Chancellor. Under these circumstances her ladyship requested to be informed respecting the truth of the report in question; which was some years afterwards referred to by some of Lord Hardwicke's vituperators, and made the subject of reflection upon him, after that great man had ceased to exist. In the reply which Lord Chancellor Hardwicke wrote to Lady Charlotte Hyde, it will, however, be seen that he gives an unqualified contradiction to the report.

*“Pewis House, Mar. 11th, 1754.**

“MADAM,—I am extremely sorry that any idle absurd

* Hardwicke MSS., Wimpole.

inventions in the newspapers should occasion your ladyship so much trouble. Permit me to assure you that there is not one syllable of truth in the story of the title, which they have forg'd for me ; & that your ladyship might have been excused from taking so much pains to dissuade me from a thing which never entered into my thoughts.

“ I am, with all imaginable respect,

“ Madam,

“ Your ladyship’s most obedient humble servant,

“ HARDWICKE.”

The extract which follows is from the Diary of Mr. Dodington.

“ *March 31.*—Lord Barnard kissed hands at Leicester House as Earl of Darlington ; Mr. Charles Townshend for the Admiralty ; & the Lord Chancellor as Earl of Hardwicke.”

It appears by a memorandum, in Lord Hardwicke’s own handwriting, of the principal events of his life, several times quoted from in these pages, that the date of the patent conferring the new honours, was the 2nd of April, 1754.

The advancement of Lord Hardwicke to this high rank in the peerage was but a fair and a due reward for his long and great services, rendered to his country in so many ways. Never, indeed, was this title bestowed in a case where it was more worthily earned by substantial merit ; and never was a dignity of this kind granted which brought more honour to the possessor, or added more lustre to the order itself. The degree to which he was thus promoted raised him only to an

equal rank with the other great law lords who had preceded him in the exalted offices which he had held, and whom he had more than rivalled as regards the efficient mode in which he had discharged those important duties. And among those who have owed their rise and well-merited dignities to their eminence in the legal profession, there have unquestionably been none on whom these distinctions have been conferred with a higher claim, than in the case of the great man, the subject of the present memoir.

The grand and important moral effect, in an extensively civilized nation, of an aristocracy of hereditary honours,—whose titles by being transmitted to the generations which succeed them, serve as real living mementoes of the genius and the virtues by which their predecessors benefited both their country and mankind,—has already been remarked in the case of the renowned lawyer and statesman, and predecessor of Lord Chancellor Hardwicke, referred to in the present chapter. As containing a memorial of these good deeds, the history of the peerage affords the noblest history of the nation itself, embracing as it does the record of its greatest occurrences, and of its men of highest renown, who were the agents in these undertakings. The remembrance of these glorious events is for ever kept alive by these hereditary titles. And, it is only the being able to trace their origin from these great and noble actions, that renders aristocratic distinctions in reality the most illustrious honours which a nation can bestow.

In the case of—

“ <i>Bishop of Man & al.</i>	<i>Plts.</i> }
<i>Earl of Derby & al.</i>	<i>Defts.</i> }
<i>Earl of Derby</i>	<i>Plt.</i> }
<i>Duke of Athol, the Bp. of Man & al.</i>	<i>Defts.</i> } ”

there is among Lord Chancellor Hardwicke's papers at Wimpole, a full report, corrected by his own hand, of his argument on delivering judgment, which was given on the 16th of July, 1751. A great deal of very curious learning and research is displayed here; and the nature of the government of the Isle of Man is inquired into, which island, the Chancellor states “is not parcel of the Realm, but of the Crown of Great Britain; long held as a feudatory, first of the King of the Norway, & afterwards, of the King of Scotland; & after that held by the King of England by liege homage. The law of England does not extend to it, except it be the common law, so far as it is consequential to the King's grant of the Isle; or certain Acts of Parliament, wherein it is expressly named. It is grantable by the Great Seal of Great Britain, not as parcell of the Realm, but of the Crown. Just as the Great Seal operates to grant lands in Jersey, Guernsey, & the Plantations. It is held by liege homage, rendering two falcons to be presented to the king's heirs & successors, upon the day of their coronation.” *

A very elaborate argument was delivered and decree pronounced by Lord Chancellor Hardwicke, on the 5th of February, 1753, in the case of *Garth con. Cotton & al.* The following important considerations are here raised, the investigation of which is of the highest value, & indeed interest to the student of real property law, but which, from the abstruse and technical nature of the

* Hardwicke MSS., Wimpole.

subject, and the great length to which the Lord Chancellor's observations are extended, it is impossible to follow out in these pages:—

“ 1. What is the intention & use of creating limitations to trustees for preserving contingent remainders.

“ 2. What estate such trustees take in point of law, & what actions they may maintain at common law.

“ 3. What is the nature & extent of their trust in equity, & what remedies they may pursue in this court.

“ 4. How far, & in what cases, such trustees may be charged in equity for a breach of trust, or any other person be affected by their act, or laches, in breach of their trust.” *

During Easter term, 1752, in the case of *Tonson & al. con. Walker*, an application was made to the Lord Chancellor, which was granted by him until the hearing of the cause, for an “ Injunction to stay the defendants from printing an edition of Milton's *Paradise Lost*, with all the notes, which had been thereupon printed by the plaintiff Tonson, particularly the notes in Dr. Newton's last edition.”

The Solicitor-General, Mr. Murray, moved for the injunction; and the following is the argument adduced on this occasion by this great lawyer and genius, as recorded by the Chancellor in his note-book:—

“ Plts claim y^e p^rperty by several assignments fro' Mr. Milton.

“ Those assignm^{ts} are admitted by def^{ts} to give a property as far as by law they may.

“ But insisted y^t it goes no further yⁿ y^e stat. 8 Anne

“ I insist on 3 points:—

* Hardwicke MSS., Wimpole.

“ 1. That before any of those acts, author's had y^e general p'p'ty in their works.

“ 2. That y^e provisions of y^e 8 Anne are only additional & cumulative, & for securing y^t property by penalties.

“ 3. That no words in y^t Act of Parliament take away or restrain, or derogate fro' y^t original general p'p'ty :—

“ 1. As to y^e first :—

“ It must be determined by y^e like rules as y^e first actions for counterfeiting marks on knives, &c.

“ The first act for a licence in 1662. That act proceeds on an antecd^t right of property.

“ This affirmed in cases y^t have come in judgment.

“ It is admitted y^t purchases & settlements have been made of such copies.

“ The preamble to y^e Act 8 Anne recites this property.

“ 2. W^r this Act 8 Anne is an accumulative remedy?

“ This Act took its rise fro' a private petition.

“ What they pray is a confiscation of y^e printed impressions.

“ If they had y^e property, no intention to take it away, but to strengthen & secure it for a term.

“ This Act don't give y^e additional remedies to any right under the king's letters patent.

“ *The property of law books is in y^e authors, but y^e right of printing is under y^e king's letters patent ; yet upon y^e property of authors such injunct^{ns} have been granted.*

“ *It is of public utility that the law sho^d be so.*

“ *Obj. That it will enhance y^e price of books, & make y^m dearer.*

“ *Ans.* It is impossible to have a faire edition of a new work unless y^e property is secured.

“ [*This is answered by y^e 14 years given by y^e Act.*]

“The profit arises fro’ y^e number of y^e books printed.

“*The great utility to be regarded is y^e encouragement to letters.*

“Many useful books have been neglected for a longer time than y^e time of 14 years, & aftw^{ds} have been admired and propagated.

“’Twas y^e case of this book, y^e *Paradise Lost*.

“So of *Locke & Newton*.”

Both an analysis, and a full report of Lord Chancellor Hardwicke’s argument on giving judgment in Lincoln’s Inn Hall, on the 25th of July, 1753, on the question of jurisdiction, upon the appeal of Dr. Isaac Schomberg to the Lord Chancellor, the two Lords Chief Justices, and the Lord Chief Baron, as visitors of the College of Physicians, are preserved among the Hardwicke papers. The learned judges appealed to, all concurred in the opinion that they had no jurisdiction in the case.

In the course of his argument, the Lord Chancellor observed,—

“The power of Parliament, in respect of the constitution of this kingdom, may be said to be omnipotent. It may create estates, & grant authorities not known to the common law; it may create summary jurisdictions in order to carry them into execution, & when these powers are created, they must continue as granted; they must be expounded & enforced by the king’s courts of ordinary jurisdiction, & the Crown cannot vary them.

“This the King cannot do by his charter; but the law says, neither can the King by his charter create a general visitor over a corporation created for the public government of a town, or of a mystery.

“The question here is concerning the power of the

Crown ; & what the Crown by law cannot do, it cannot do, whether the defect arises from one reason or another. Where there is a want of power, it does not *recipere majus aut minus*, from the reason on which it is grounded.”

The following case is extracted from the Chancellor’s note-book :—

“ Hilary Term, 1754. Feb. 5.

“ *Chetwynd & Windham.*

“ *Perrott & Windham.*

“ *Blacknell & Windham.*

“ *Mr. Attorney-Gen. pr. Hon. Wr. Chetwynd.*

“ The end of this bill is to be relieved agst a gross fraud & imposture, in setting up a fictitious child, pretended to be devisee of Walter Chetwynd, Esq. deceased, & to have acc^{ts} taken of real & personal estate, & receiver, & the deeds deliv^d to plt.

“ Directions for pay^t of test^{rs} just debts.

“ Mr. Walter Chetwynd became acquainted with Cath. Lindon, al^s Windham, at Paris, in 1747. She before y^t had criminal conversation with other men. Continued that while he kept her.

“ *Aug.* 1749. She pretended to be with child by him.

“ *Nov.* 1749. She pretended to have been brought to bed.

“ 1. In this respect, our bill is to be relieved agst this imposition.

“ 1. On y^e head of insanity.

“ 2. That y^e will was not duly executed, all y^e 3 witnesses being creditors of y^e testator, & y^e debts charged on y^e estate only by y^e will.

“ These matters will be tried upon *devisavit vel non*.

“ The fraud will be tried on any other kind of issue.

“ As to def^t *Cath. Lindon*, a partic^r issue very necessary, or direct relief in this c^t; for the £200 per ann. is given to her on y^e false belief which she had created *y^t y^e child was his child by her*.

“ 14 <i>May</i> , 1750, will of Walter Chet-	} Read from y ^e probate.
wynd,	
“ Ditto codicil	

“ Directed four several issues to be tried at y^e bar of y^e King’s Bench, & referred all further directions.”

END OF VOLUME II.



